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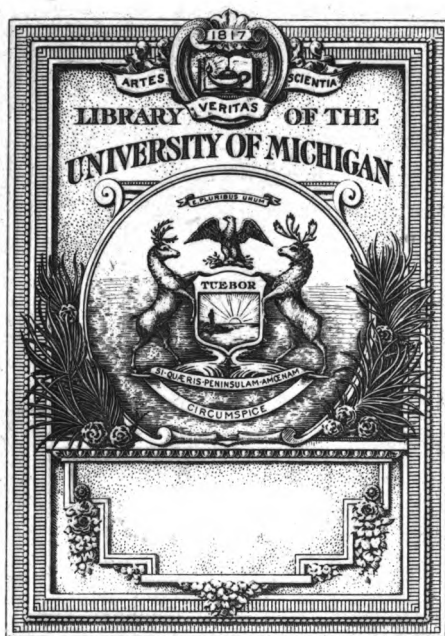
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1911

REPLY

TO THE LETTER

OF

J. FENIMORE COOPER.

BY

ONE OF HIS COUNTRYMEN.

BOSTON.

PUBLISHED BY J. T. BUCKINGHAM,

1834.

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TO J. FENIMORE COOPER.

I EXERCISE a common right, as one of your countrymen, in replying to some passages of the Letter, which you have recently addressed to the whole people of the United States. In doing this, it is no part of my design to comment particularly on those topics of alleged personal grievance, which occupy the chief part of your communication. We, of the general mass of your fellow-citizens, who were accustomed to read your works with delight,—who admired your genius,—who knew you only as an eminently popular novelist,—who prized your literary reputation as parcel of our own great national heritage,—we, the indiscriminate people of the United States, regard your Letter, so far as it relates to yourself individually, with unmingled emotions of mortification and sorrow. There is no party-feeling in this, either American or European. If not a solitary word of American politics had appeared in your Letter, our sentiments on this point would have been precisely the same ; for, whatever be our party-banner, we universally honor and esteem the nationality of spirit, which is alike predominant in the *Pioneers* or the *Prairie*, and in the more didactic page of the *Notions of the Americans*. Neither are we *doctrinaires*, *Orléanistes*, foreign diplomatic agents, or aught else, which there may be, of transatlantic name, to rack your imagination with terrors of persecution abroad, and slander at home. None of these considerations affect our judge-

ment. But we grieve to see this new chapter in the record of the infirmities of genius. We deplore a glorious planet darting madly from its empyrean sphere. We seem to be lessened in our own estimation, humbled, depressed as by an overwhelming evidence of our universal human weakness, in witnessing this aberration of the great faculty of intellect, in beholding the weak spots in higher and nobler mind, thus laid bare, self-exposed, to the profanation of vulgar gaze. Participating in all these feelings, and your name, as an author, being coupled in my memory with so many reminiscences of pride and of pleasure, I abstain, therefore, absolutely and entirely, from any remark upon your exposition of the controversy between you and certain of the newspapers of New-York.

My business, at present, is with the extraordinary political opinions, which,—in the professed intention of exemplifying the spirit of foreign imitation, characteristic, as you say, of this country,—you have introduced into your Letter.

In the very heat and agony of a mighty political struggle,—the mightiest since the days of the Revolution,—you have gratuitously thrown yourself into the midst of the strife. Quitting the field of honor whereon you were nearly supreme, you have descended into the common arena of party contention, totally unfitted for the contest by all the habits and occupation of a life-time, to gain a dubious honor if successful, but under the assurance, meanwhile, of almost inevitable discomfiture. Aspiring to be more profound, logical, learned, and far-seeing than Clay and Webster, in the comprehension of the great principles of national polity,—more critical, acute, and penetrative in the construction of the Constitution than Calhoun and Leigh,—you deny to the Senate of the United States, all right to express, and by conse-

quence to entertain, any opinion upon the executive acts of the Chief Magistrate. He may, directly and undisguisedly, violate the Constitution ; but they must be blind, dumb, senseless, even in view of the prostration of their own constitutional powers, as a co-ordinate branch of Congress, and as the representations of the States of the Union. In your apprehension, the Resolutions of the Senate are unconstitutional, and fraught with mischief ; but in the Protest of the President, and the series of outrageous measures which preceded it, there seems to be nothing to alarm the most timid understanding. Therein, you and the Nation are at issue ; and it were idle to touch upon the points of this question, after the masterly and irrefragable constitutional arguments, with which Mr. Webster has justified his vote in the Senate. At the same time, whilst you were coming to such a conclusion, with the Resolutions and Protest before you, and whilst you were seeking for examples of English analogies and English precedents obtruded into the politics of the United States, it is somewhat marvellous that you should have overlooked the remarkable feature of the Protest itself, namely, the express assertion of an *inherent* executive authority in the President, prior to the Constitution, a sort of divine right drawn from analogy of the royal prerogatives of the kings of Great Britain. You endeavor, by elaborate construction, to make out a case of foreign imitation against the Senate : you shut your eyes to a case, in the self-same transaction, of monstrous and most dangerous foreign imitation, avowed on the part of the President.

But *my* quarrel is not with these doctrines or averments of your Letter. What I specially deny and impugn is the strange heresy it puts forth,—a misconception so palpable as not even to possess the faint lustre of mere paradox,—that, in the United States, the great object of

public suspicion and watchfulness should be the legislative, rather than the executive, department of the government.

That your declared opinions, and my remarks upon them, may be clearly understood, I premise a few extracts from your Letter. No injustice will be done to you in separating them from the context, because they are essentially independent observations, involving ideas extrinsic to your argument, and to be construed by reference to the general principles of political science.

In one place you say :

‘This measure of withholding the supplies is peculiarly English ; it is the means by which Parliament has destroyed whatever of balance the government ever had, and is the simplest, the most obvious, and the most dangerous of all the modes of legislative usurpation. It is time to begin to consider our legislators in their true character ; not as sentinels to watch the executive merely, but as those of the public servants the most likely to exceed their delegated authority.’

Again you say :—

‘If this Union ever shall be destroyed by any errors or faults of an internal origin, it will not be by executive, but by legislative, usurpation. The former is easily enough restrained, while the latter, cloaked under the appearance of legality and representation, is but too apt to carry the public sentiment with it. England has changed its form of government, from that of a monarchy to that of an exceedingly offensive aristocracy, precisely in this manner.’

And yet again, after ascribing to the President exclusive control of the public treasure, in the offensive, and universally repudiated, terms of the Protest, you say :—

‘Many who read this Letter will feel disposed to exclaim against a state of things, which places so much power in the hands of one man. I see far less apprehension of executive than of legislative usurpation, in this country. Still, I am willing to admit that the President has too much authority for our form of government.’

Well, indeed, might you admit this, if the high prerogative doctrines of the Protest were sanctioned by the text or spirit of the Constitution. But, allow me to observe, you misapprehend the great source of danger in our form of government, not less than you do the extent of the powers of the President. I undertake to show that the general position, which you thus deliberately and repeatedly state, is false in principle, and that it is mischievous in application.

It is quite manifest how you arrived at such an erroneous opinion. It was by the self-same course which you yourself so pointedly condemn, the unconsidered adoption of precedents from the history of England. You perceived that, in very modern times, the English Parliament, or rather, the House of Commons, had been the successful antagonist of the Crown. You remembered that, in the days of the Commonwealth, it had actually usurped and appropriated the whole public authority. You knew how, during the two last reigns, it had practically exercised complete control over executive measures by means of its power to withhold supplies, or otherwise by its votes to embarrass the royal ministers. You had witnessed its late innovation upon the constitution of government, in the laws of parliamentary reform. Out of these and other analogous facts of the English Parliament, you have extracted a general political theory, that usurpation is to be apprehended from the legislative branch of government, rather than from the executive, that great object of patriot and republican jealousy in all ages of the world. A moment's reflection will satisfy you that this is an erroneous view of the facts. Grant that, in England, 'Parliament has destroyed whatever of balance the government ever had,' and this, too, by 'legislative usurpation.' What *usurpation*? Why, truly, this which you thus stigmatize as usurpation, and hold up in terror to us, lest we should be ever watchful of the monarchical element of our Constitution, and over trustful in the representative and popular element,—this usurpation it is, which gave back to England, by wresting it from the tyranny of the Crown, all that of great and free, in her institutions, which renders her a name of glory among the nations of Europe. Her statesmen boast of her limited monarchy. It is limited, solely by reason of the functions acquired to Parliament, through what you designate as 'legislative usurpation.'

But the case is applicable to our institutions only as it illustrates one of the grand political aims of the age, *abstracting power from the executive, and transferring it to the legislative*, branch of the government. It is no otherwise applicable, because, with us, the executive and the legislative authorities are alike public functionaries, with limited power delegated to them by the Constitution. And which of these authorities, the legislative or the executive, is most to be apprehended by the constituent people, is not a question of mere English analogy, as you put it,—but a question of human motive and action, tested by experience and principle, and considered with reference to our own peculiar Constitution.

Independently of the misapplied English precedents, from which you infer the lamb-like innocence of the executive as compared with the legislative authority, under our Constitution, you cursorily allude to some other considerations, which demand a brief notice. One is, the faculty of Congress, or either branch of it, as already touched upon, to refuse its assent to the annual appropriations. I reply, that the power of doing this belongs to the Senate and the House of Representatives severally, by positive grant of the Constitution; and the exercise of a power, thus conferred, cannot be justly termed an act of usurpation. Congress, or either branch of it, has the same right to negative an appropriation, which the President deems essential to the public service, as the President has to veto a bank-bill or a land-bill, or a bill for internal improvements, which Congress deems for the welfare of the Union. You say, that in so doing, Congress is not withholding *its* supplies, but *our* supplies; and, in so doing, likewise, the President is not vetoing *his* bank or *his* public improvements, but *our* bank and *our* public improvements. You say, that for a legislator to oppose granting supplies in order to 'embarrass an administration,' is a direct insult to

the intelligence of the constituency ; and so, likewise, for an executive magistrate to oppose a bank, in order to uphold an administration, is a direct insult to the intelligence of the nation. But if the President, illegally, usurpingly, in derogation of the Constitution, seizes upon the public treasure, and loans it out to irresponsible political partisans for party-purposes merely,—it is a clear case of constitutional discretion for either the Senate or House of Representatives to judge, whether, in voting the supplies, they will see to the security of the revenue ; and in doing so they proceed upon their responsibility to the respective States, or to the people they represent, in the exercise of a function given them by the Constitution.

Which is most liable to misuse its constitutional discretion, the President or either branch of Congress, is a very different question. As to this you express an opinion, that executive usurpation is easily restrained, while legislative usurpation, being cloaked under the appearance of legality and representation, is but too apt to carry with it the public sentiment ; and these are the remaining reasons, which you assign, for your greater confidence in the executive authority.

* Appearance of legality and representation ! What language of a Liberal and an American, applied to the Congress of the United States ! How, appearance of representation ? Have you lent your ear to the insidious doctrine of incipient tyranny, broached in the Protest, that the President is the peculiar representative of the people ? Do you forget that one branch of Congress consists of individuals chosen directly by the people, and who are, by name and constitution, its only immediate Representatives ? Of what citizen is the President the direct representative ? He is chosen by small electoral colleges, assembled in each State. Those electors are, in many instances, chosen, not by the people directly, but by

the legislatures of States. In the last resort even, he is chosen, not by the people, but by their Representatives in Congress. It is, therefore, an implication, pregnant of error, to speak of the legislative authority as acting with *appearance of representation*.

And how, appearance of legality? Observe, that we are considering the relative tendency to usurpation of the President and of Congress, adversely each to the other; and for an act of Congress to wear the 'appearance of legality,' it must have the assent of the President, and of course, cannot be any usurpation upon his authority. If, indeed, two-thirds of each house of Congress should pass a bill, after it had been rejected by the President upon a constitutional question, a difficult emergency would have arisen. If Congress were actually exceeding its constitutional powers, and the case did not readily admit of settlement by judicial interpretation, it must, of course, be for the States or the people to decide between the two parties; and in that event, certainly the chances of victory, as I shall hereafter argue, would be on the side of the President and the Constitution. Doubtless there is ample cause, under our Constitution, to be jealous of usurpation on the part of Congress and the President, conjointly, that is, the entire Government of the Union. Our assurance against this lies in the general integrity of the people, and when that fails, in the state-pride and public independence of the separate States. Even at the present time, but for the patriotism and wisdom of the Senate, representing the qualified sovereignty of the States, we might see the national liberties overborne by an usurping President, and by that Administration majority of the House of Representatives, which is denounced by the President himself, as venal and corrupt. Usurpation by the joint power of the President and Congress, I repeat, is possible; but this is not the 'legislative usurpation' spoken of in your Letter.

Executive usurpation, you allege, is easily restrained ; that is, under our Constitution. Is it so ? Undoubtedly, there are legal means of repression, as applied to executive magistrates, namely, the preferring an impeachment ; and no such means, as applied to members of Congress. You express wonder, in one place, that members of Congress are not proceeded against by impeachment ; and ascribe this to false imitation of the English. Not so. The President possesses vast independent power, greater, as you yourself avow, than that exercised by the King of Great-Britain. An individual member of Congress, what independent power does he possess,—except it be to make speeches, and frank them to his constituents ? And either house of Congress, as a legislative body, possesses very little separate independent power. It cannot, as you believe, so much as express an opinion, except in the form of, or with a direct view to, legislative action, wherein its own decision is of no avail without the concurrence of the other house and of the President. Nor are the powers of Congress, in themselves, apt for abuse. Whereas it is inherent in the executive functions, as will hereafter be made to appear, that they should be peculiarly susceptible of abuse, and perpetually run into usurpation.

Whether you build your opinions, as to the danger of legislative usurpation, and the innocuous quality of the executive power, upon the foregoing considerations alone, is not distinctly stated in your Letter. But the confident air of conviction, wherewith you announce the doctrine, would imply that you have deduced it from attentive scrutiny of history, or profound analysis of the principles of public polity. The subject, interesting in itself, invites a careful examination.

In a constitutional government, like that of the United States, a majority of the constituent people may, in some sense, commit usurpation ; and this happens, when they

remodel or amend the constitutional compact, or appoint a chief magistrate, by unconstitutional methods, as the South-American States have done in several instances. One of the States may impose unconstitutional conditions upon the sister States. Congress, or the President, separately or jointly, may arrogate power conferred on neither, but reserved to the people or to the States. Congress may assume to perform acts, which it belongs to the President to perform; and the President to perform acts, which are the province of Congress. All these and other forms of usurpation are conceivable and possible. But for the purposes of the present investigation, it needs only to consider Congress and the President relatively, in respect of two forms of usurpation, namely :

First, Whether is Congress, or the President, according to the first principles of government and the theory of our Constitution, most likely to encroach one upon the other, in the discharge of duties actually imposed upon them, or one of them, by the Constitution; and,

Secondly, Whether is Congress, or the President, singly, most likely to usurp powers reserved to the people or the States. I say *singly*, because examples of alleged usurpation by the *joint authority* of the President and Congress, as in tariff-laws, laws of internal improvement, or other alleged unconstitutional *laws*, do not bear upon the question of the relative tendency of the President singly, or of Congress singly, to encroach upon the people or the States.

I maintain, as a general political theorem, that, in each of these two conditions, the executive authority is more dangerous to the public liberties than the legislative authority; or, to speak with stricter exactness of language, that there is more cause of apprehension from the President, than from either or both of the two houses of Congress. And, in illustrating my opinion upon this subject,

I shall, in the first place, run quickly over a few examples of other free nations, and then look more particularly at the case of the United States.

Most of the valuable lessons of national polity, applicable to the European civilization, are drawn from the history of the great nations of Europe, and of their colonial offsets in America. It would little avail us, in the present inquiry, to depart out of the limits thus indicated. Within these, we find the splendid Republics of Greece and Rome, the very watchword of liberty, names of greatness, bright with a halo of never-dying glory. The Republics of modern Italy, Switzerland, and the Low Countries,—the less durable ones of England and France,—the great military democracies of the middle age, out of which came the various kingdoms of modern Europe,—in all these, facts are to be discovered pertinent to our purpose. Nor, leaving Europe, is there any dearth of such facts in the young Republics of America.

Cast your eye over the universal book of ancient history. Great and good men,—patriots of whom the world was unworthy, everlasting memorials of the dignity and intellect of manhood,—meet the search from time to time in its pages. Which of them were champions of the one depositary of executive power?—Unroll the old world's record of moral grandeur. Names of famous men shine upon it like stars in the galaxy of heaven. First among them we see party-leaders lifted into extravagant popularity and power in some fever-fit of the body politic,—generally successful military chieftains, exhibiting that union of cunning and force which too often goes to make a conqueror,—wild meteors, glaring athwart the firmament, and filling the troubled world with discord and confusion, so as to gratify their own selfish ambition of power and to feed their supple sycophants with the 'spoils of victory.' Need I specify them by individual call? In the demo-

cratic cities of Greece, their number has given them a generic name, which is now passed into the by-word of usurpation and misrule. The *tyrants* of ancient Greece were executive chiefs, who,—despite the perpetual democratic jealousies of the people,—despite the many instances of their fatal end under the dagger of an Harmodius, an Aristogeiton, even of a brother so pure as Timoleon,—yet continually exemplified, by their conduct in office, the tendency of the temporary chiefs of republics to gather more and more power into their hands by gradual usurpations, until they become absolute monarchs under whatever disguise of legal forms and denominations. And so it is with the dictators and usurping generals of Rome,—Cinna, Marius, Sulla, Cæsar. All the great commonwealths of ancient times have passed away; and in what did they end? Is it not the familiar fact of school-boy learning that they sunk under the usurpations of some popular military chieftain? That they ended in becoming, not representative aristocracies, as your theory would imply, but simple monarchies? And these, I admit, the dictators, the usurpers, the popular military chieftains, are they,—with lives written in blood, and signalized by violence and outrage, whether in camp or court,—who exact our attention in all the lapse of ages, because desolation, civil convulsion, the overturn of states, the breaking up of popular institutions, and the rise of brilliant despotisms, follow along in their tremendous train. But are such the patriots of the past time, endeared to us, admired, honored, sanctified in our hourly thoughts, held up to our sons as models of purity and virtue, shining century upon century in the dimless lustre of their beautiful fame? Oh no! If ye would name a name, that shall send the thrilling blood in a tide to the heart, it is none of these usurping chieftains, who, having filled the high places of their country with a mercenary host of

obedient followers, and possessing the sword already, by usurpation joined to it the purse, and so became too mighty for the public liberties ; it is none of these ;—but rather men, who bore up the banner of their country's honor and independence against executive usurpation, and perchance died by the sword or the axe in resisting it, the blessed martyrs of freedom. And as thus it is in the history of the ancient republics, so, likewise, will any, the most superficial observation, perceive it to be in modern Europe.

But suppose we examine this matter under a more philosophical point of view. At the period when our authentic knowledge of Greece begins, we perceive a people inhabiting the southeastern extremity of Europe, and the neighboring region of Asia, with the interjected islands, speaking dialects of the same common tongue, having manners, religion, and historical recollections in common, and constituting thus far one nation, but yet divided into separate and independent communities, only casually or at least imperfectly associated for any of those great purposes of peace or war, which belong to the unity of national organization or force. These communities generally consisted of each of the great cities, with its environs, and occasionally some portion of subject territory. Such were Sparta, Argos, Thebes, Athens. At first, they appear in the form of monarchies ; afterwards, some of them are changed in the process of domestic revolution into brilliant democracies. In either condition, they associated in general league for occasional great objects, as in the aggressive one of the Trojan war, and the defensive ones of resistance to the invasion of Darius and Xerxes. They more frequently associated in partial leagues, for internal warfare among themselves, as in so many of the sanguinary contests between Athens and Sparta. They possessed, also, at times, imperfect forms of permanent league, as in *their* Amphictyonic Council.

Look, now, into the interior organization of either of the great divisions of Greece, which for any length of time possessed a democratic form of government. Take Athens, the greatest, the wisest, the brightest, of the Republics of Greece. Have you imagined that Athens was a powerful nation, having free institutions of government by an elected chief magistrate, a stable judiciary, and a representative legislature, like the United States, or either of its confederated States? By no means. It was merely a free town, whose legal citizens managed its affairs by a simple town government, and deliberated upon the enactment of laws, the levy of armies, the prosecution of war, the conclusion of peace, the appointment of magistrates or generals, and the punishment of political offences, in a plain, downright, genuine town-meeting. Its government was a free municipal government, no more and no less, exercised directly by the inhabitants of the city in their capacity of citizens, and to which the inhabitants of the subject foreign territory, and of the rural population without its walls, were admitted, not in the form of representation, but only as they might become entitled by acquiring what in our law is called the freedom of the city. In these town-meetings, primarily, and for the most part, resided the deliberative voice of the Athenians; in them were pronounced those admirable orations of Demosthenes and his cotemporaries, the great examples of the deliberative oratory of the Greeks.

Now what was the machinery of usurpation in Athens? The lover of monarchy will reply that it was *democratic usurpation*, the extorting of power from the line of Theseus, and the giving it to the areopagus and the assemblies of the people. The republican will reply that this was but a restoration of political power to the citizens at large, the only legitimate claimants of power. Well, take it upon the latter hypothesis; for surely none other

can be upheld by an American. What act of usurpation begins the tale? Is it not that of Pisistratus? And how did he attain illegal power? A Greek shall tell.

‘He counterfeited so dexterously the good qualities which nature had denied him, that he gained more credit than the real possessors of them, and stood foremost in the public esteem in point of moderation and equity, in zeal for the present government, and aversion to all that endeavored at a change. *With these arts he imposed upon the people.*’

What I have thus quoted was written, let me caution you, nearly two thousand years ago,—not, as you might imagine, in the summer of one thousand eight hundred and thirty four.

Moreover, the same Pisistratus paraded his wounds in the market-place, like a mendicant for alms, and thus contrived ‘*to inflame the minds of the people, by telling them his enemies had laid in wait for him, and treated him in this manner on account of his patriotism.*’ Thus Pisistratus made his way to tyranny. And then it was that the wise and virtuous Solon addressed himself to the citizens, ‘sometimes upbraiding them with their past indiscretion and cowardice, sometimes exhorting and encouraging them to stand up for their liberty.’ Then it was that Solon used the remarkable expressions: ‘*It would have been easier for you to repress the advances of tyranny, and prevent its establishment; but now it is established and grown to some height, it will be the more glorious to demolish it.*’ And may the friends of liberty re-echo the exhortation in every age!

But the Pisistratidæ had their reward; and the next remarkable case of usurpation in Athens is that of Pericles. And how did he proceed? Why, by banding together a host of corrupt office-holders, and then using them to lift him to absolute power; for, says the historian, ‘*by pensions and gratuities, he so inveigled the people as to avail himself of their interest against the council of the areopagus,*’ that select legislative body, the only element of stability and conservation in the government of Athens.

And is not this the very scene now enacting in these United States?

Look, now, at the state of things in Italy. When we endeavor to call to mind the condition of any of the ancient nations celebrated in history, we are prone to have before us the idea or image of that nation in its external relations, and in the general whole, as one great power acting in the aggregate upon the affairs of the world. Such, at least, is the tendency of mind, as I observe it, in those individuals, who have not reflected or studied upon the subject of Rome in reference to questions of abstract political philosophy. On the very outside of things, we see conquering armies led forth to the uttermost limits of the civilized world;—Spain, Gaul, Britain, Germany, on the one side,—Carthage, Greece, Asia Minor, Syria, Egypt, on the other, subjugated by the consuls or prætors of Rome; all mankind, as it were, coming under the dominion of this proud Republic, this great centre of empire, sending out her lordly proconsuls to domineer over Europe, Asia, and Africa. Let us approach this ambitious and haughty power, which is commissioning Publius Scipio or Caius Marius to cross the seas, and carry the eagles of the Republic into Africa; which gives to Paulus Æmilius authority to bind in chains the royal posterity of Alexander of Macedon, or bids C. Mummius subdue the humbled Greeks; which commissions Cneius Pompey or Cornelius Sulla to march their legions over half the prostrate thrones of Asia; which bestows on Caius Cæsar a general mission of victory for all Europe:—Let us approach it, I say, and see what that is, which thus revolutionizes the universe, and by what means it thus propagates and renders universal the imperial sway of Italy. Truly it is nothing but a great city, having a select deliberative assembly, indeed, but still transacting its most important business in a pure and genuine town-meeting; establishing, wherever

it goes, in Spain, Gaul, Germany, simple municipalities,—mimic Romes,—civic institutions, not national ones,—town-governments, not great constitutional or representative republics.

Such, undeniably, is the fact. Our earliest knowledge of Italy opens to us the spectacle of another Greece, its political institutions being, indeed, derived from the Greeks. Great cities are seen here and there, the chiefs of some local league, or the rulers of some agricultural district, all along in Erturia, Latium, or Magna Græcia. Presently one of these cities engages in war with a neighboring city, and makes the latter tributary; and so on from one to another until it has vanquished the whole peninsula. This is Rome. But through all this beginning career of empire, she still retains her municipal organization. It is the city and citizens of Rome, with a civic not a national organization, which conquer. The same civic organization remains to the conquered. They are the subjects or allies of Rome as cities, not as individuals; and the external affairs of Italy, the first Punic War for instance, are still the exclusive business of the great town-meetings of Rome.

At length, the Italian cities tire of being equally burthened with the expenses and labors of the vast enterprises of Rome, without participating in the honors and enjoyments of power. What happens? Is a representative government like ours established? Do the inhabitants of Capua, and Patavium, and other great towns, choose individuals of their number in whom they repose trust, to meet in Rome, with individuals delegated in like manner by the inhabitants of Rome, and there consult for the common good, as Worcester, Springfield, Plymouth, Salem, appoint their representatives to assemble in Boston, together with the representatives of Boston? Not at all. Instead of this, the freedom of the city of Rome is specially granted to particular individuals, or the inhabitants

of particular towns, so that they become citizens of, and voters in, the city of Rome ; and thus only do they participate in the government. In the sequel, when this partial doling out of the political privilege ceases to content the Italians, there grows up the Social War, which ends in the gradual extension of the freedom of Rome to the whole of Italy. This was the first great step in the downfall of the Republic ; and the second was when the foreign provincials were admitted to the same right of voting and acting, not by representatives, but directly, in the municipal assemblies of Rome.

This municipal quality of the Greek and Roman governments has left the traces of itself in the language of political science applied to a totally different condition of the world. Whence the very word *politics* ? It means, in its origin, the affairs of a *city*. What name is given to him who enjoys the elective franchise ? Simply, that of *citizen*. What is the *civil* law, but the law of a city, and, by distinction, the law of that pre-eminent city, Rome ? What is *civilization* itself in its etymology, but the becoming *citified*, if I may so speak, an idea, which in the changed manners of the middle age, came to denote something mercantile, or mechanical, and the reverse of its original application. So the word *metropolis*, which, although sometimes improperly used to signify the capital city of a country, yet in strictness means the *city* from which a colony has gone out, and of which colony it is the *mother-city*. And this fact, by the way, illustrates the great distinction between the modern European colonies and the ancient colonies of the Greeks. The old colonies were voluntary emigrations of the surplus inhabitants of some city, who went abroad to found a new city ; and the mother-city regarded the new city as a child, to be protected and aided if need were, but not as a subject to be held in obedience.

Well, now, in the long run, did the select legislative body of Rome usurp on the people or consuls, or did the consuls usurp on the Senate and people? In every chapter of Livy, of Plutarch, of Cicero,—the fact is apparent, that it was the executive magistrates, the consuls, ever the consuls, who, after uniting the sword and the purse, humbled the Senate, and then lorded it at will over subject Rome. In these, the declining days of her liberty, it was by *intruded foreign votes*, as all testimony avers, that the mischief was wrought. And the grey hairs of age were not less prominent in this work of consular usurpation than the greener vigor of early manhood. Age and long services have lately been pointed at as pledges of executive purity. But we read that one of these usurping generals,—Caius Marius,—at the age of seventy, distinguished by the unparalleled honor of seven consulships, and possessed of a princely fortune in money, lands, and slaves, died in a delirious phrensy of ambition for additional wealth, honor, and power. Governments pass away ; institutions are changed ; nations rise up, move on for a space, and disappear, like the figures of a phantasmagoria ; but in all ages man is one ; and that which was human nature in Rome, may be human nature in America.

Illustrations crowd upon us on every side, as we advance to the history of modern Europe. Prominent therein, as the pioneers of civilization, stand the Republics of Italy, closely resembling those of ancient Greece, in their civic organization, in their turbulent liberty, in the contest of classes going on within each distinct municipality, in the martial spirit of their inhabitants, in their mutual warfare, and in their final subjugation to the tyranny of their own *executive chiefs*, simultaneously with the loss of the national independence of the Italians. Of all that magnificent family of republics, all, all, yielded up their liberties to some usurping chief, in one form of usurpation or an-

other, excepting the city of Lucca, the small village of San Marino, and the more potent states of Genoa and Venice. You may, if you please, take Lucca, Genoa, and Venice, as examples on your side of the question, of legislative usurpation; inasmuch as they became, or continued to be, mere aristocracies. Be it so; the difference, then, is just here: the great mass of the Italian Republics, Florence, Milan, Amalfi, Pisa, Pavia, Verona, Siena, Bologna, in short, all the once free cities of Italy, are examples on my behalf; while three are in appearance adverse to it; and the force of the argument is a simple numerical comparison. I say, *in appearance*; for, if Venice and Genoa do come down to our times in the form of aristocracies, yet such were all the Italian Republics;—and how cultivated, prosperous, rich, powerful, were these two to the last, preserving a proud independence amid the wrecks of their sister Republics!—They maintained their external independence, by maintaining their domestic independence; the impotence of their doges rendered them harmless; and it was in precisely the same way, by depriving their executive chiefs of the power to do mischief, that Switzerland so long continued a Republic.

There is one other great republican confederacy, which, by pursuing a course of domestic policy opposite to that of Switzerland, saw itself continually subject to the usurpation of a military chief, and at length settled down into a mere monarchy. I allude to the United Provinces, whose whole domestic political history is a standing illustration of my hypothesis. Were not Cornelius and John de Witt torn in pieces,—did not Barneveldt perish by judicial murder,—was not Grotius banished,—that some stadtholder might rule supreme in the Netherlands? And are not the magistrates and the treasures of Amsterdam expelled at last from their ancient abode, that a *roitelet* may king it in the desecrated halls of her noble Stadhuis?

But the great monarchies of modern Europe all afford not less cogent proofs in support of my general position. So as not to receive this in any degree upon the mere trust of broad assertion, let me intreat you to reflect a moment, and call to memory that condition of the world, out of which the manners, languages, and laws of the modern civilized nations have sprung. It was, you will remember, the state of barbarism and anarchy consequent in the invasion of the Roman empire by the Barbarians from the North. The existing governments of England, France, Spain, Germany, are what remains of the feudal system engrafted by the Barbarian conquerors upon the municipal and religious institutions of the Romans. A band of these Barbarians, be they called Goths, Saxons, Franks, leave their native wilds in the North, and pour themselves in a conquering host upon the population of Gaul or Britain. This invading tribe strips the conquered people of their lands, reduces the people themselves to servitude, and remains in possession of the country, engrossing all the rights of government and property. The lands thus acquired, and the serfs upon them, are then parcelled out among individuals of the tribe, on condition that each individual, so receiving lands, shall perform military and other duties, as an equivalent or recompense for the grant. The land thus granted is what the law calls a feud; the tenure of holding it is feudal service. Except in regard of this engagement of military service, each individual of the tribe still remains independent of the others, and destitute of the idea or obligations of nationality. But the conquered people rebel; or new conquests invite the conquerors to other regions; and the necessity arises for concerted action. How, then, shall this concert be attained? The men, of whom we are speaking, are a wandering tribe living in the camp, and not yet scattered over the country in settled habitations; and

they deliberate, as they did in their native forests, as our Indians do, in *general camp-councils*. Such are the Champs-de-Mars, of which we read in the early history of the Franks, and the assemblies of the universal German people, which elected Conrad and Lothaire. In process of time, however, these individuals of the conquering tribe are fixed in separate baronial castles; each of them is the lord of his allotted feudal territory, the baron and liegeman of the feudal system, having the same personal independence of his fellow-barons, that he had when they or their fathers invaded the country, and the same right of participation in councils touching the general welfare. As property, like power, always tends to accumulation, ere long we find that some of the barons, by force, or favor, or skill, or good fortune, acquire respectively larger shares of lands and feudal followers. In this stage of the progress of modern civilization, the lesser barons, those who have small estates, being separated far and wide over the country, cannot, without great expense and personal inconvenience, attend the public councils regularly in person, while the great barons continue able and willing to do it; and hereupon grows up the practice, among the lesser barons, of sending representatives or elected delegates to the Cortes, States, or Parliaments, there to act with the great barons, the ecclesiastical chiefs, and the king, for the common good of the kingdom. Such has been the origin, all over Europe, of the deliberative assemblies of modern times.

Note well the difference between the popular legislative assemblies of ancient and modern Europe. Those of the old time were civic democracies, voting in person in the municipal corporations, to which they respectively belonged: those of the middle age were military democracies, voting together at first when collected in predatory errant armies, and subsequently resorting to *representation* as

matters of personal convenience. So that popular representative assemblies are the growth of modern polity.

Now with these considerations before us, for a key to the events which ensued, let us reflect where the tendency to usurpation first developed itself:—among the representative assemblies of each country, or in the person of the king, who, in those days, was but a baron like the rest, elected by them to be their leader for life. Is it not notorious that, all over Europe, a stupendous revolution was operated in the fifteenth and sixteenth centuries, through the persevering aggressions and usurpations of the executive chiefs of Germany, France, Spain, England, Italy? Elective magistrates converted themselves into hereditary dukes and princes. Crowns came to be holden, not by the will of the people, but by divine right in the line of primogeniture. In France, the legislative assemblies disappear, and the kings render themselves absolute by destroying the authority of their great barons. In the Peninsula, Charles, first of that name in Spain and fifth in Germany, suppresses the Cortes and makes war upon the city-corporations of Castile, and his son Philip sets at nought the *fueros* of Aragon. In Italy, every city falls under the sway of some usurping duke, and a Norman monarchy is established in Naples. In Germany, the imperial election comes to be a mere ceremony of state, for advantage of the House of Austria. In England alone a Parliament of Lords and Commons remains; but even there our free vernacular tongue becomes corrupted into the pliant tool of courtly sycophancy under the tyranny of the Tudors. Through all this great European revolution, there is no diversity of aim. Every where, it is one unvaried picture of executive usurpation. Not a solitary legislative body displays that spirit of aggression, which you deem to be the besetting vice of representative assem-

blies. They do not even make good their own hereditary independence as legislators and as men.

Thank God, it was not always thus to be, with the disfranchised, but not quite brutified, people of Europe. First, the military democracies, every where but in Poland, had suffered themselves to slide into mere hereditary monarchies. Next, those monarchs, through the capacity of usurpation innate in the executive head of every nation, however constituted and named, made themselves absolute every where but in England. But then came a new crisis in human affairs. Mind awoke from the torpor of barbarism, and began to struggle in its chains so soon as it became aware of their existence. The revival of letters, the discovery of the polar needle and of America, and the invention of printing, changed at once the whole face of Europe. Men freed themselves first from religious oppression. Was this 'usurpation?' Afterwards, they set about freeing themselves from political oppression, through the obvious and ready instrumentality of their legislative assemblies. Was this 'usurpation?' It was what you designate as such, when,—by a singular *bouleversement* of all the ideas of popular right, which have come down to us from our forefathers, the old king-killing round-heads and Commonwealth's men,—you stigmatize the glorious contention, wherein Coke, Hampden, Vane, Pym, led,—wherein Sydney and Russell perished,—which is honored by the immortal works of Harrington, Milton, Locke, and Sydney,—which Chatham, Fox, and Burke, forever glorified as the very Marathon and Plataea of England's liberty,—when you stigmatize these the battles of national freedom as mere 'legislative usurpation.' The House of Commons, forsooth, have changed the government from a monarchy into an oppressive aristocracy! Pray, what was it when the Commons began their career of 'usurpation?' Do you really prefer the government of the two Henry

Tudors, of Mary Tudor, and of the male Stuarts, to that of the modern Georges? Would you, that England should be ruled by the brutal and sanguinary Henry? Do you regret the fires of Smithfield? Think you well of the times when Anne Boleyn and Catherine Howard were beheaded at the behest of a tyrant? When the pious Fisher, the gallant Essex, the wise Raleigh could be judicially murdered at like command? When the Commons 'agnized' the condescensions of Elizabeth on 'the knees of their hearts?' When King Charles went down to the House of Commons in person, and at the head of a troop of horse, to seize upon John Hampden? When Sir John Elliott was illegally arrested and left to rot in jail without trial, for exercising his privilege of speech in Parliament?—Are these the blessed days, which an American, in the zeal of his tenderness for the high prerogative of Andrew Jackson, complains are done away by the 'usurpation' of the English Commons? The times are indeed out of joint, when the President of the United States claims inherent executive authority by virtue of his being the successor of the King of Great-Britain,—and when, to justify him, on theoretic principles, an American would roll back the tide of English liberties to the reigns of the moderate and amiable Tudors and the liberal Stuarts.

But let us reason coolly on this matter.—*Délibérons*, said Sieyes, when a chamberlain of King Louis undertook to disperse the National Assembly with a flourish of his white staff.—Among the great monarchies of Europe, there are two, which have distinguished themselves by force and boldness of intellect, by advancement in all useful arts, by the cultivation of science and learning, by the attainment and possession of elective assemblies of representation. I mean, of course, Great Britain and France. Repeatedly, you warn us to beware of foreign imitation. But I cannot understand that we should reject all knowl-

edge, unless we ourselves were its first discoverers. The object of philosophical inquiry is truth: the object of human life is the pursuit of rational happiness here and the preparation for it hereafter. Are we to refuse to entertain a valuable fact because it was known to others before it was known to us? Must we forget the art of printing, or any thing else that men prize, because it came from the other side of the water? Is a domestic error to be preferred to a foreign truth? So far as this, clearly, you do not intend to push your doctrine. And I agree with you that we are to judge of our own political system upon the letter of the Constitution. Nay, but for that you lost sight of your own principle, there would have been no occasion for the present communication; since it is by the misconstruction of a foreign precedent, that you are misled into error. And I introduce more specifically the case of France and England, in order to follow up your own precedent in its application to the United States.

First, as to England:—which, you say, ‘has changed its form of government, from that of a monarchy to that of an exceedingly oppressive aristocracy, precisely in this manner,’ that is, by ‘legislative usurpation.’ When? When did she undergo or effect this change?—When did the government of England cease to be a monarchy? Truly here is a strange assertion.—But, mean you, the power of the monarch is rendered null by the power of the aristocracy exerted in Parliament. Reduce your proposition, then, so modified, to any specific shape of time and person. Will you ascend above the Norman Conquest? You imply, that the monarch has too little effective power now: how much more had he, I pray you, in the time of Saxon Hengist, Horsa, Cerdic, or Aella? Surely these men were Germans, leading voluntary bands of their countrymen to conquest, of whom, what Tacitus

avers, all other historians confirm: *De minoribus rebus principes consultant, de majoribus OMNES*. Will you stop at the Norman Conquest? Then you must be content with that state of things, a little anterior to the complete development of feudalism, of which I have already spoken, when the suzerain had just so much authority as the barons of his following chose to concede, and no more. Or will you be content to take your stand with King John in the now race-course of the ever-to-be-remembered fields of Runnymede?—Who could have dreamed that the name of Magna Charta was yet so utterly lost to memory, that the limitation of kingly power in England by means of Parliament, should be mentioned with implications of regret and of bad example!—Reflect, also, how many times that Charter was broken; how long the knights and barons had to struggle with perpetually recurring executive usurpation; how for a while, after they were broken in the War of the Roses, they succumbed to executive tyranny; how the decapitation of one king was not enough to purge the Tudor and Stuart blood of the leprosy of usurpation; and how nothing availed for the national safety, short of the utter expulsion of all the males of that race from Britain.

You, however, seem to regard the epoch of the expulsion of the male Stuarts,—not as what it was, the period when the persevering usurpations of the Tudors and Stuarts ended with the end of their dynasty,—not as what it was, the time when Parliament evened once more the scales of political right between itself and the Crown,—but as the commencement of a novel series of usurpations on the part of Parliament. ‘Previously to that period,’ you say in one place, ‘the prerogative was in the ascendant.’—Not *legally* ‘in the ascendant;’ for the Bill of Rights and the fresh memory of King Charles expiating his usurpations in front of Whitehall, were in the way.

Not *practically* 'in the ascendant;' for the attempt of James of York to make it so was then losing him his kingdom.—But *previously*! How long previously? At the battle of Naseby?—When your 'previously' shall be, it is not easy to discover, unless, as before observed, it be during the usurping tyranny of the Tudors.—And in the same place you continue:—'Since that period the prerogative has been constantly on the wane, until it is completely annihilated as to all practical authority.' Constantly on the wane, in good sooth!—Surely you forget the celebrated Resolution, introduced into the House of Commons by Mr Dunning in 1780, during the War of Independence. '*The influence of the Crown has increased, is increasing, and ought to be diminished!*' A Resolution, which even the Speaker, Sir Fletcher Norton, supported; and which was adopted by a full House, although it was that very House, which sanctioned the Lord North's tyrannical policy towards insurgent America.

You counsel us to view the matter under a new aspect. In Hallam's Constitutional History, I read that—'The Whig had a natural tendency to political improvement, the Tory an aversion to it. The one loved to descant on liberty and the rights of mankind, the other in the mischiefs of sedition and the rights of kings. Though both admitted a common principle, the maintenance of the constitution, yet this made the privileges of the subject, that the crown's prerogative, his peculiar care.' And I read in Bissett, that—'The *tyrannical proceedings* of Charles formed the opponents of his pretensions into a firm, well-compacted, and powerful body. By promulgating the *doctrines of passive obedience*, so contrary to the rights and liberties of Englishmen, to common sense, and to common feeling, the King * * * united the supporters of opposite sentiments under the appellation of Whigs.' And in Rapin's Dissertation on Whigs and

Tories, I find the distinction of principle, between the Tory as the partisan of the executive authority, and the Whig as the asserter of the rights of the people,—deduced through all the changes of Saxon and Norman Britain. But this venerable name of Whig, associated with so many of the triumphs of liberty,—which well served as a party-designation for those who drove James Stuart to the Continent,—which well served to distinguish our fathers in our own glorious Revolution,—this reminiscence of liberty is out of vogue, it seems, in your vocabulary. Wherefore, thrice you caution us against reading Burke; our legislators must not look into any Whig speeches or books; the star-chamber records of royal prerogative are very profitable reading for the writers of presidential protests; but let all beware of such dangerous matter as ‘Chatham, Burke, and the parliamentary history of England.’ Most of us had fondly imagined that Parliament, in standing by its ancient privileges against the usurpations of the Crown, was doing some little thing for freedom; but you tell us, not so; they were only building up an ‘oppressive aristocracy,’ at the expense of the good Henry and the gentle James.

Now here again I take issue upon the matter of fact. At this present writing, I aver, the universal people of England possess more power as such than at any prior period since the Norman Conquest, except, perhaps, for a very brief time of the Commonwealth. I deny that what the Commons have been doing for the last two hundred years is ‘usurpation.’ With your leave, I hold to the *Whig* faith herein, as briefly stated in Parliament by Mr Curran:—

‘The existence of British liberty is due to the unremitting vigilance with which it has been guarded from encroachment. Every invasion, with which it was threatened by the folly of ministers or the usurpation of kings, has been constantly checked by a constitutional assertion of liberty. Such was Magna Charta; such were various statutes that were made under the House of Lancaster; such

the Petition of Rights, the Bill of Rights, the Act of Settlement, and the recent repeal of the vi George I. No man can think that British liberty derived any authority from those statutes, or that acts of Parliament can create constituent rights. We are not free because Magna Charta was enacted, but Magna Charta was enacted because we were free.'

And though it were 'usurpation,' and if absolute monarchy were a thing so much to be longed for and mourned after, yet I deny that what the Commons have accomplished is merely the strengthening of the aristocracy at the expense of the monarchy.—In the first place, the feudal system was in itself a pure aristocracy, just as much so as the government of Venice.—Next, the granting of supplies, or the refusing them, is coeval with the existence of Parliament. Kings would have been very glad to dispense with parliaments, if it might be; but they summoned their liegemen to meet for the express purpose of obtaining gifts, aids, benevolences, and other *voluntary* grants of money. The Commons have acquired no *new powers*, in our time, or in any time, by refusing supplies. Legally, it is now, and always was, an open bargain between the King and Parliament. Govern to our satisfaction, and we will give you supplies in aid of your hereditary revenues,—ever has been the true constitutional language of the Commons.—In the third place, as to the composition of the House of Commons, and the intervention of the *titled* aristocracy in returning its members, it was conclusively shown, in the debates on the Reform-Bill, that the bill gave to the House a broader constituency than it ever before possessed.—Finally, touching the faculty possessed by the majority of the House of Commons, of virtually controlling the executive chief by controlling his ministers, I prefer even such government so administered, if we must choose in this alternative, to the rule of an absolute and irresponsible monarch. Can you seriously intend, as your language implies, to express a preference for the latter condition? On riper reflection, you cannot but admit, for it seems to be one of

the truisms of public freedom, that a very straightly limited monarchy, like that of England, is better than the absolutism of Spain or of the East.

Then, as to France: I frankly avow that the organization of the National Assembly was in form a 'legislative usurpation.' But how stood the fact upon the act of usurpation? Was it not the rather a justifiable reclamation of rights usurped from the nation by successive kings? From the time of the expulsion of the English out of France, amid occasional vicissitudes in favor either of the barons or the *tiers-état*, the kings had been, for centuries, committing usurpation after usurpation, until despotism had, as it were, come to be legalized. The Estates had been summoned but casually, and were disused since the reign of Louis XIII. The nobles were converted into mere courtiers. No land-mark of liberty remained standing, but the great religious and judicial corporations. Out of that whole series of events, from the assembling of the States-General to the opening of the National Convention, little is to be extracted of argument on either side of our question, because it was from first to last the march of a strong revolutionary impulse, a great democratic movement, rendered sanguinary and capricious by foreign invasion and an internal war of classes. Under the Convention, there was no executive head. As our Congress did in the Revolution, so did the Convention; they got along very well by means of legislative committees; at least there was no want of energy in those executive committees, and quite enough of the spirit of usurpation. But so soon as there was an executive head, *eo nomine*, what do we see? The Directory *purifies* the Councils by surrounding the Tuileries with troops.—Then Bonaparte enters upon the scene; and surely the First Consul, *taken from the camp to preside over the republic*, is not over-scrupulous to observe the constitutional bounds of authority. The Em-

peror indulges executive usurpation and lust of conquest to that degree, which wearies France and Europe of his rule.—The Bourbons return; but they also must needs infringe the Charter; and the Revolution of the Three Days ensues. At last, we have Louis Philippe; and if common fame speaks truth in this behalf, *you will not* charge him with reluctance to magnify his apostleship, whether at the expense of the people or the Chambers.

It may be, that I needlessly labor this point of historical proof. But it is one of the traits of the times, that every gentleman, who, like you, attempts to defend the President, is overcome with ecstatic admiration of the executive branch of government, and insensibly glides into the style of absolutism, and the consequent depreciation of legislative assemblies. Wherefore, it becomes needful to revive the very essential doctrine of liberty,—the fundamental principle of democracy in all ages,—namely, distrust and jealousy of executive usurpation.

As to this branch of the subject, the truth is a general one, common to all times and places. Depose a given quantity of power in the hands of one individual, and he is more capable and more apt to abuse it, to seek to magnify it, than a legislative assembly invested with the same quantity of power. The quality of *oneness* gives to him immense advantages in such an enterprise; as perseverance of aim, secrecy, undivided counsels, energy.—Then, popularity attaches to an individual, to the lustre of personal glory, as all experience demonstrates, rather than to an aggregation of individuals. That shall be deemed virtue and moderation in a cunning individual, which passes for rank treason in a legislative assembly. But the argument is a trite one; it would irk me to follow it up; and I leave it for the purpose of elucidating the particular facilities of usurpation possessed by the President, as compared with the Houses of Congress.

In the *government* of the United States, I hold there are two quarters, from which usurpation,—efficient, dangerous attack on the Constitution,—is more especially to be dreaded. Whether, as between the governors and the governed, there is most reason to be jealous of the States or of the Union, is not the present question. But, looking to the government merely, there is to be watched, first, the aggregate power of President and Congress in the shape of complete legislation; and that is the old controversy, agitated in the very outset, on the adoption of the Constitution. There is, next, the President, whether he come upon us in the guise of a popular soldier, or of an accidental chief of party, or, still worse, as combining these two perilous conditions. Setting aside the consideration of risk to the States or people from a conspiracy of usurpation in the President, the Congress, and the Judiciary,—there is, in my view, more cause to apprehend *effective* usurpation from the President separately, than from the Judiciary, the Senate, or the House of Representatives. Prior to the adoption of the Federal Constitution, it would appear, such was the universal opinion touching this point. The opinion was afterwards called in question, however, by some eminent men of the time, who, while they admitted that in other societies the executive department was justly regarded as the source of danger, yet contended that here it was too powerless to be apprehended in comparison with the legislative department. But they confessed the dangerousness of the executive power, even here, if ‘in the hands of a particular favorite of the people.’ Then, it was a speculative inquiry: now, we are able to speak to the question from experience. And this being a vital question in our Constitution, let us analyze it, and examine its elementary parts.

We may very shortly dismiss the Judiciary; which can

usurp only upon paper ; and that usurpation, unless aided, and still better if opposed, by the President and Congress, is wholly incapable of operating *in fact* to the immediate detriment of the people or the States. Its judgements, except they be enforced by the President, are only prejudicial as opinions. Judges themselves are impeachable, as well as the President ; and they may be deprived of their political being by the repeal of the act of Congress under which they are appointed. Add to which, that judicial bodies are in the habit of deferring to precedent ; and if prone to amplify their jurisdiction in matters of law, yet have not means or aptness for independent *political* usurpation. So that, all things considered, they cannot be greatly in the way, when acting adversely to the President and to Congress.

Conjointly, the Senate and House of Representatives have means of direct control over the President,—first, by impeachment,—secondly, by refusing appropriations,—thirdly, by a concurrent vote of two thirds after a veto. Separately, the House of Representatives has no independent means of control, except in the refusal of appropriations. The Senate has independent means of control in the same way, and also in its action upon treaties and appointments. Neither the House nor the Senate has any considerable patronage. What jurisdiction either has of contempts is quite unsettled. Their only substantive power, acting directly from them upon the people, is in the opinions they express ; and the President possesses the same power in this respect, with any member, or either House of Congress, even to the origination of legislative acts. If the people are, at any time, with Congress, against the President, it must be on the force of reason, or at least opinion, exclusively ; it cannot be through any corrupt influences, or in virtue of actual power. So much for Congress.

The President has co-ordinate powers with either House of Congress in the origination or the rejection of a law. To counterbalance their power in the matter of impeachments and of a vote by two thirds upon a veto, the President has the faculty of acting upon the cupidity of individual members through the appointing power, and enormous means of acting upon the whole people through appointments to and removals from office, and as commander of the army and navy. If he be wicked enough to render himself the party-head of a vast mercenary band of subservient office-holders,—and to devote the public revenues to the business of corrupting individuals directly with official bribes, and corrupting the public mind generally through an organization of presses maintained also by perquisites and official bribes,—then, as he has incalculably greater means of mischief in this respect than either House of Congress, if he also be possessed of the temper of usurpation, the case will have arrived for all men, who desire not a master, to strike in to the rescue of the Constitution.

Has, then, such an emergency arrived? What is the evidence of fact upon the relative tendency and capacity of the President, and of the two Houses of Congress, to usurpation?—To this inquiry will be devoted the remaining pages of this Letter.

No instance occurs to my recollection, of any actual encroachment, by the House of Representatives or the Senate, upon the constitutional rights of the President, except it be the disputed votes of the present Senate. Various examples are at hand of legislative acts, that is, conjoint acts of President and Congress, alleged by some party or persons to be unconstitutional. Such are the several bank-acts, acts of internal improvement, the alien and sedition laws, embargo-acts, the purchase of Louisiana, certain tariff-laws, and so forth,—some, among the

most odious of these, originating with the executive department of the time, and all having its constitutional sanction. These, of course, go for nothing in the argument. Nor will I discuss imputed unconstitutional acts, inchoate or complete, of past administrations. Sufficient, is the lesson taught us by the present Chief Magistrate.

Executive usurpation generally begins, and often consists altogether, in the abuse or unlawful extension of constitutional powers. It loves to observe the forms of law. In elective States, it is uniformly accompanied with false professions, wherewith to deceive the electors. Its favorite mode of operation is by exciting a groundless alarm in respect of some other person or institution, so as to divert public attention from itself, and cloak its own selfish purposes. When there is a strong military force on foot, its agent of aggression is the army; but when that is not at hand, its engine of power is either faction or pecuniary corruption.

When Andrew Jackson came into office, it was upon certain professed principles of the conduct *he* intended to pursue, that his election was put and carried. His opponents objected his violent character; his *self-avowed* incapacity for civil employment; the disregard of law, which had occasionally marked his public career. They predicted misrule and usurpation, as inevitable to ensue upon his attaining power. His advocates, and he himself personally in one form or another, pledged him to the following principles, namely:

1. His retirement at the close of one term of service.
2. His superiority to mere party-considerations.
3. Sedulously to avoid conferring office on members of Congress.
4. To keep elections free from all contact with, or influence from, executive patronage.
5. Economy of administration.

6. The reform of public abuses in persons and things.

7. An administration specially regardful of the interests of the people.

8. Scrupulous delicacy in the exercise of public authority derived from the Constitution.

Such were the *false pretences*, employed in the President's favor; for never, in all the annals of time, was a more extraordinary case of flagrant contrariety between practise in office and profession out of it, than the Administration exhibits. Not one substantial pledge of his party or his friends has the President redeemed. Nay, the monstrous violation of each seems to be in very scorn of truth and honor. But, passing over this point, what I propose to illustrate is, the AIM of his open forfeiture of all the pledges in question, and of his persevering march in a line of conduct the reverse of his engagements,—namely, to raise up a dynasty of corruption, by perverting and prostituting all the powers of government to that one abominable end. This is my charge against the President: herein I signalize the usurping and unconstitutional spirit of the Administration.—Inspecting each of the great classes of action, whereupon he was pledged, we shall perceive that the executive functions have in general been stretched to their uttermost tension for the augmentation of executive power; and that where, in some noted cases, abstinence in this respect has *appeared*, it was not through moderation of principle, but in order to weaken Congress.

Let me briefly call your attention to the details of this undeniable and pregnant fact.

1. The President's friends promised that he would serve but one term; and he himself, in his first message to Congress, advised the amendment of the Constitution in this particular, to prevent the abuse of a second election; while not only is he a second time in office, but it

is by no means clear he will not be held up for a third term. And when Mr. McDuffie, pursuant to the President's recommendation, actually moved an amendment of the Constitution to limit the tenure of presidential service, he was denounced as an enemy of the President, it thus appearing that what the President had been made to say in his message was nothing but deceitful profession, the stale demagogue's art of usurpation in all republics.

2. He urged President Monroe to break down 'the monster, party,' and to be catholic in his appointments; yet he it was that adopted a system of proscription for opinion's sake, removing from office two thousand persons in four years, only because they were not partisans, and appointing mere partisans with such reckless disregard of personal fitness, that some nominations were *unanimously* rejected by the Senate; descending 'down to low-water mark to make an ousting of tide-waiters,' if they did not happen to be clamorous for Andrew Jackson. Nay, the high offices of this Republic were shamelessly claimed as the 'spoils' of party victory!

3. Before he came into office, the President formally reprobated the appointment of members of Congress to office; averred that to do so would make *corruption* 'the order of the day'; and solemnly declared that it was '*due to himself to practise what he recommended to others.*' Yet this, which John Quincy Adams and his predecessors did rarely, Andrew Jackson has done frequently. Corruption *has become* the order of the day; and that in examples of baseness, of themselves enough to sink in the deep sea any Administration not sustained by unconstitutional and fraudulent means.

4. In his inaugural address the President reiterated the assurances of his partisans, not to bring 'the patronage of the government into conflict with the freedom of elections.' Yet it is the daily spectacle of this Administration

that the revenue officers earn their wages in electioneering for the President; that party newspapers are established or sustained by contributions of their pay; that not a few of the higher officers of government are specially meddlesome even in state-elections; that post-office contracts are made a matter of corrupt partisan emolument; that the surest qualification for office is noisy partisanship; and that all the energy of place and patronage, almost the entire revenues of the government, are squandered in corrupting the press and the citizens for the special benefit of the President and the Vice-President.

5. Economy of administration.—There was no one thing in the administration of John Quincy Adams, about which his opponents complained so clamorously, as its alleged profusion.—Who could have thought it possible?—In their long roll of pretended abuses, not a clerkship have they abolished, not a salary reduced. Their loud talk of retrenchment was the trickery of imposition. Those very men have augmented the public expenditures by millions annually; money has been poured out like water in extra-allowances to partisan contractors, and extravagant jobs to newspaper-editors, in multiplied offices and augmented salaries; in every form of lavish prodigality.

6. The party composing this Administration raised an outcry against abuses, which did not exist; and so soon as they came into power, with unparalleled effrontery actually proceeded to create those very abuses. What they meant by 'reform,' no man knew; for they did not designate the abuses to be reformed; but they defined the thing practically to be the turning out of office faithful and intelligent incumbents, and putting in political partisans. How truly they have themselves shunned abuses in office, the world may see by that sickening mass of rottenness and fraud, the bankrupt Post Office Department.

7. Protecting the interests of the people.—This appears

to imply, vetoing public improvements, denouncing the Bank, raising interest to eighteen cents in the dollar, paralyzing industry in all its branches except note-shaving, taking measures to reduce to insolvency every man whose capital consists in his integrity and enterprize only, aiding to put down manufactures, and the like notable methods of ruining the middling interest, and spreading dismay among the business-men throughout the Union.

8. But the grand charm was the word 'democracy.' The Administration was to be purely 'democratic' in principle, scrupulously abstinent in the exercise of power, the special and incorruptible guardian of the Constitution. Pending his first term of service, the conduct of the President on this head was ambiguous, not to say capricious, *in appearance*. Occasionally, he seemed to give up the clearest rights of the government, to deny the plainest powers of the Constitution; as in some of his official messages. Then again he was exerting the executive authority in forms never practised by his predecessors, never contemplated by the Constitution. Time has presented us with a solution of the seeming inconsistency or uncertainty. The 'democracy,' which he contemplated, was not a republican government, administered in a democratic spirit; but a submissive people ruled at the will of a dictator. First, this Administration is decidedly more *federal* than either of its predecessors; that is, the President habitually exercises, and in the Proclamation or Protest elaborately claims, higher federal powers, powers more purely constructive and more glaringly anti-democratic, than any antecedent Chief Magistrate. Next while the President, and his immediate organs, denied various constitutional powers of the Judiciary and of Congress, none are denied to the President. And this proves to be the key of the seeming caprice in the construction of the Constitution, of occasional rigor alter-

nating with extreme laxity, which had characterized the first four years of the Administration :—to abstract power from the judicial and legislative departments of government, to arrogate power to the executive department.

First, the President avowed that he held himself *above the law of the land*, undertaking to observe the laws, not as construed by the constitutional judges of their meaning, but as construed by himself: thereby aiming a deadly blow at the Judiciary, which indeed the official presses denounced and proscribed by name in echo of the President.

Next, in one message or another, the President has expressly denied to Congress the right to make appropriations for internal improvements and to incorporate a national bank, and impliedly disputed the constitutionality of the protecting system; while the same official presses talked about 'cutting down' the Senate, and justified the shooting at members of the House for words uttered in debate.

But, on the other hand, while the President and his partisans were thus lopping off the functions, and insulting the dignity, of Congress and of the Judiciary, they were silently heaping up power in the hands of the President.

He began by that wholesale exercise of the power of removal, before alluded to; a power not set down in the Constitution; raised only by implication; introduced into practice at first for cause of extreme necessity, and that by so doubtful a construction as to be decided by the casting vote of the Vice-President; rarely used by Washington and Jefferson; disused as it were for thirty years; but immediately seized for daily use in the settled party-system of this Administration. Next, he took upon him the frequent exercise of the odious power of the veto, also intended by the founders of the Constitution for extreme cases only, but employed by Andrew Jackson in four years

more times than by all his predecessors together since the formation of the Union. And, in conformity with the spirit of these acts, he gave Congress to understand that it might exercise the powers which he absolutely denied to it, if it would exercise them, or leave them to be exercised, in the way and time he prescribed. Thus, after approving a harbor-bill and making it the law of the land, he assumed to abrogate parts of it at his discretion. Thus, also, Congress might not incorporate a bank subject to the joint authority of the President and of Congress; but, *waiting his time*, it might incorporate a bank to be the *treasury agent*, (or in other words, the private party-hack,) of the President.

Down to this epoch,—the close of the first term,—the President himself did not indulge in those offensive pretensions and phrases of dictatorship, which have recently come into fashion with the Administration. The *Globe*, to be sure, told us that Andrew Jackson was ‘born to command.’ But things were not yet ripe for the final step. Usurpation proceeds gradually. Usurpers may sometimes conceive indistinct ideas, entertain vague hopes, as to the future; but generally it is one stage of elevation, which lifts them high enough to take observation of another. Bonaparte resolved to be the greatest of generals, and he became so; but the resolution to be Consul was an after-thought, and the resolution to be Emperor still a second after-thought. Cromwell scarce looked to be Protector, when he led a troop against King Charles.—The object contemplated, I repeat, and the object accomplished, in the first four years of this Administration, was *to establish a dynasty of corruption by perverting and prostituting all the powers of government to that end*. By means then perceived and understood, although not then distinctly exposed or circumstantially proved, a portion of the newspaper press

was thoroughly bribed, and corrupted into the mere stipendiary of the Administration. All men in the public service, from the heads of department down to the humblest clerks and revenue-officers, were made to comprehend that their tenure of office consisted, not in ability and integrity, but in blind subservience to the will of their chief in all things, even to the matter of the company to be kept by their wives ; not in official faithfulness, but in shouting hosannas to Andrew Jackson. Then, by the agency of venal presses, and the all-pervading intrigues of contractors and office-holders, the re-election of the President was secured, and the present difficulties entailed on the Republic. The fabric of corruption was reared. Its machinery of imposition and calumny was in full play. The fetters of the dynasty were twisted about our limbs. And all the energies of this nation,—

O glorious strength
Put to the labor of a beast, debased *
Lower than bond-slave !—

were harnessed for the despicable work of the faction about the President.

Notwithstanding the just perception of the usurping spirit of the Administration, entertained by all enlightened men not bound to its cause by party-trammels, there occurred a series of events in the autumn of his re-election, and the winter ensuing, which for a season diverted the public watchfulness into another channel. I refer to the progress of nullification in South-Carolina. In the case of Georgia, the President had expressly given his sanction to practical nullification in the worst form. No man suspected him of any intention to deal thus kindly with the Nullifiers of South-Carolina ; because the circumstances of his personal difference with John C. Calhoun, and the unfortunate connexion of that eminent individual with the nullification-party of his State, were matter of universal notoriety. We at the North, especially, felt

alarm for the safety of the Union. We feared some act of precipitate violence on the part of the President. His extraordinary veto-message had eradicated all faith in the general soundness of his views of the Constitution. When, therefore, his Proclamation unexpectedly appeared, it filled us with joyful and most welcome surprise. Although it was rather *ultra-federal* in some points, we yet hailed it with sincere approbation; because we cherished the Constitution above all things; and cheerfully sacrificed our party-predilections on the altar of the Union. In the stormy session of Congress, thereon following, the great statesman of Massachusetts, actuated by such sentiments, gave to the Administration his all-powerful aid. That controversy, then, was ended; honorably, to be sure, to the President, thanks to the timely interposition of Daniel Webster at one period, and that of Henry Clay and John C. Calhoun at another; but it was ended, and so ended, that Opposition seemed to slumber. In reality, the people were prosperous and content. A load of care, uncertainty, and apprehension, was taken off their shoulders by the simultaneous settlement of the nullification and tariff questions. Then was the time for the President to earn himself immortal opinions. If he had possessed magnanimity enough to frown into nothingness the 'venal herd of flatterers' about him,—had he taken counsel the rather of his known responsible advisers,—could he, like Sulla, after attaining the summit of ambition at the expense of honor and his country, have shown himself superior even to his fortunes,—if, emerging from the murky atmosphere of faction which he had groped in so long, he were great enough to have made himself the head of the nation instead of the mere leader of a party held together by nothing but money,—if Andrew Jackson had been capable to do this, men would have thrown the mantle of charity over the manifold sins of his first ad-

ministration ; and, save among disappointed officeholders no longer able to use him for their emolument, not a voice would have spoken but to honor him in every city and every hamlet of America. The path of true glory was plain before him as the light of noonday. His visit at the North made manifest the readiness of all the world to be silent if they could not applaud, and to acquiesce in his authority ;—they little dreaming that the prime use he meditated to make of his unexampled popularity was wantonly to strike a death-stab at the welfare of the nation and the integrity of the Constitution.

So early as during the first year of his being in office, the President called the attention of Congress to the subject of a re-charter of the National Bank. He repeated the call in subsequent years. No scruples had then entered his mind as to the constitutionality of a bank-act. We heard nothing of its being a gigantic moneyed corporation, dangerous to the liberties of the people. Some three years afterwards, Congress accordingly passed a bill for a re-charter of the Bank. But the President negatived the bill on various grounds of special exception to its provisions, and among the rest because that, which he had recommended to be done two or three years ago, was now, as he said, *premature*. At the same time, the presses of the Administration began to raise an outcry against the Bank, upon grounds incredibly factious or contemptibly futile ; and the party took up the matter in Congress the next winter. Wherefore this remarkable change in the views of the President ? The answer to this inquiry brings us to the next step in the career of executive usurpation.

The Administration had succeeded, past all belief, beyond even their own hopes, in the plan of rendering the office-holders of the country instruments of electioneering, and of identifying a part of the newspaper-press with

the government through post-office largesses. The revenues of the nation were administered, not for the good of the people, but the interest of a party; and the re-election had, as the managers thought, *fastened* the country to the dynasty of Jackson. But they wished to clench the nail. They knew that the business of this people was conducted in no small degree by means of bank-credits. Their own venality,—the facility with which they had made *corruption the order of the day* in their own ranks,—led them to conclude they might render it universal, if they could but obtain the same absolute control of the Bank of the United States, which they already possessed of the Treasury Department and the Post Office. Working such wonders with the annual revenue of the government and the mail-contracts and offices, what might they not do if they could turn the whole business of *borrowing and lending* into the same feculent kennel! There was too much of promise in this hopeful scheme to be neglected. For reasons obvious enough, the Branch in New-Hampshire was first attempted; but they found, to their mortification, that although the Senator from New-Hampshire might be a very fit person to traffic in government bribes, it was a thing wholly out of Jeremiah Mason's line of practice. Both were citizens of New-Hampshire, to be sure; but they did not breathe the same stratum of atmosphere, physically, morally, or intellectually. The President of the New-Hampshire Branch could honor the Senate or the Bar; but he could not administer the Bank in the exclusive interests of the *dynasty of corruption*. Nicholas Biddle and his associates of the Mother Bank were alike impracticable. Thereupon came war against the Bank. Had the Bank been equally subservient with the Post Office, although, like the latter, it should have coined its life-blood into bribes, becoming

utterly bankrupt and a standing beacon of mismanagement and foul fraud, yet would the sympathetic presses and the tender-hearted orators of the Administration have been filled with sensibility for its amiable weaknesses and the loveliness of its unblemished purity of intention. But it was incorruptible, and therefore unfit to live,—under the government of Andrew Jackson.

Men, who are at once great and good, administer public affairs in the honor and welfare, not of themselves, but of the nation over which they preside. It has been a feature of the sycophantic man-worship, which characterizes the party in power, to apply all the acts and events and resources of the Administration to the uses of electioneering and the personal glorification of Andrew Jackson. In the mistimed, and generally misplaced, gasconades, which have accompanied the announcement of any treaty concluded, we see this pointedly exemplified. Reckless of principle, the minions of the Administration were equally ready to clamor for or against a man or an institution, whichever should best aid them in the work of securing the perpetual control of the Union. Accordingly, as they could not *use* the Bank for electioneering purposes, they betook themselves to *abuse* it for such purposes. And their game, in this matter, was another of the secrets of usurpation, which historical experience teaches and exposes.

Under all governments, the various corporate associations of the people are always elements of popular strength and popular power, except when they are corruptly or surreptitiously attached to the machine of government. If independent of the government, and amenable only to the laws of the land, they are the *points d'appui* of the people in resisting the usurpations of their rulers. In despotic monarchies, having no true legislative bodies, like Russia, Turkey, some of the governments of

the East, they are the *only civil* resource against oppression, which the nation possesses. They were so in France previous to the Revolution. These are notorious political facts. Wherefore, in all ages, one of the great objects of despots, or would-be despots, is first to corrupt, and if that may not be, then to break down, all corporate associations of the people. To accomplish this, it has been the ordinary device of tyranny, to excite a false uproar against one such corporate association, or class of associations, so as to arouse the fears or jealousies of another association or class of associations, and thus to render the diverse elements of liberty the means of their reciprocal destruction. A striking instance of this comes to my remembrance. When the Emperor Charles of Spain ascended the throne of Castile, the nation possessed two prominent means of withstanding executive usurpation,—first, the *Cortes*, a legislative body,—secondly, the *comunidades*, or civic corporations. Charles played off one of these against the other, made war upon the *comuneros*, domineered over the *Cortes*, and so crippled both, as to leave his son Philip all but absolute; and Spain has never rallied from the political degradation brought upon her in that disastrous period. Another remarkable instance of this occurs in the assaults of the two last Stuarts upon the corporations of Great Britain. Analogous facts abound, indeed, in the history of all almost every people.

In pointing all the batteries of party-fury against the Bank, then, the Administration saw various of their sinister ends to be served. First, they were to destroy an institution, which, being independent of them, was of course odious to them. Thus usurpation was to have its path cleared of one great obstacle.—Then, it was desirable to possess a topic for *tirades* about money, moneyed influence, moneyed aristocracy, as the means of exciting jealousies of class among the laborious and the poor. Here were

men revelling in the treasures of the nation ; enjoying enormous salaries in the collection and superintendence of the revenue ; enriching themselves with government-contracts ; marting the public offices to ‘undeservers ;’ bloated as it were with bribes. How specially convenient was it for these men, to declaim against the corruptions of the Bank, and so hide their own iniquity under the visor of virtue, rolling up their eyes in hypocritical horror of the sins they falsely imputed to others, while they themselves were rotten to the core ! Corruptions of the Bank !—Shame on the desperate hirelings, suborned to raise this factious cry against every freeman and every lover of his country, who disdains to wear on his neck the golden collar of the Treasury. *They* talk of corruption ! Matchless impudence !—What says the false Glo’ster ?—

I do the wrong, and first begin to brawl ;
The secret mischiefs, that I set abroad,
I lay unto the grievous charge of others ;—
And seem a saint when I most play the devil.

And thus it is with the charges of the Administration against the Bank.—Finally, they took it up as a pretext, under cover of which to seize upon the public treasure, and thus make another advance in the march of usurpation.

Into the question of the legality of the fact or mode of removing the deposits of public revenue from the Bank of the United States, and its disastrous effects upon the national welfare,—there is no occasion for me to enter at large. It is not, you perceive, the purpose of my argument to make a systematic arraignment of the Administration. That were a task, fit to be done by one man among us, preeminently qualified for its performance. Would that the caustic intensity, the unequalled experience and reading, the all-embracing comprehension, the burning eloquence, of John Quincy Adams, were pledged to the great public duty of exposing the dangerous constitu-

tional doctrines of the President,—the false pretences and forfeited promises by which he gained power,—his appointments and removals from office,—his economy of expenditure,—his negotiations,—his dealings with Georgia, the Bank, the Post Office, the public domain, the tariff, and internal improvements,—his successive cabinets, proper and improper,—in fine, all those pernicious measures of misrule, which have signalized the career of the present Administration! Nay, the best pens of the country might honorably unite in communicating to the people, through the newspaper-press, a dignified and connected, but at the same time plain and popular, view of this whole subject. It is what is peculiarly needed at this crisis.—My plan is a more restricted one, aiming only to illustrate the question of executive usurpation, suggested by your Letter.

It is pretty clear that the removal of the deposits was a blunder on the part of the President's advisers, arising from their inconceivable ignorance of the principles of currency and trade. They had no distinct conception of the *extent* of public misery which must ensue; had they done so, they would not have put their places in jeopardy by over-hasty audacity in crime. The President's responsible cabinet foresaw the effects of it, and opposed it: but his irresponsible advisers prevailed. They were stupid enough and mad enough to imagine that by removing the government-deposits they should break the Bank. So this could be done,—and thus their party-ends be promoted, and the vindictiveness of the President gratified by throwing to him a victim to devour,—they cared nothing for the loss of seven millions of dollars, stock in the Bank, belonging to the nation. 'Unless the Bank is broken down,' said the President to William J. Duane, 'it will break us down; if the last Congress had remained a week longer in session, two-thirds would have been secur

ed by corrupt means ; and the like result may be apprehended at the next Congress.'

The Bank, therefore, was to be *broken down*, lest it should bribe the *Administration members* of Congress ; that is, diminish the number of the President's partisans. —Where, in the Constitution, does he find it enjoined upon the President to *break down* an institution, existing under a law of the United States ? Does he violate laws by virtue of the line which requires him to see that the laws be duly executed ? What law authorized him, on his responsibility, to remove the public money from the place where it was deposited by Congress ?—It was an illegal seizure of the public treasure. I hold the Resolutions of the Senate to be solemn truth, and the arguments of Binney, Webster, Clay, Calhoun, Adams, and others, upon this topic, to be unanswered and unanswerable.

But no, say you, the removal was the lawful right of the President, who, as the executive authority, has exclusive custody and control of the public treasure. Then, I reply, if it be admitted for argument's sake to be legal, yet at all events it was a violent, unnecessary, unjust, unjustifiable *stretch of executive authority* ; and so, if not actual usurpation, yet upon your own case it was the spirit and temper of usurpation. Not even the drilled majority of the House of Representatives, although endued with saintlike meekness and obsequiousness, and a capacity of licking the rod above all praise, not even they could be screwed up to the sticking point of bolting this portion of their lord and master's prescription. They perseveringly *skulked* the question of the *sufficiency* of the reasons assigned for removing the deposits, through all the by-paths and dark passages of parliamentary obliquity. It was, indeed, cruel to ask of them to ratify *directly* the main reason of the removal, their own imputed venality ; they

were willing to seal this charge *indirectly*, by sanctioning the removal; but to do this *directly* and upon express vote,—by yea, and nay, and every pretty oath!—that was passing the bounds of reasonable vassalage. Tory servility hung its head in shame, passive obedience itself *shyed off*, in view of such crouched submission to the humbling behests of the President.

Whether unconstitutionally, then, or only by a despotic abuse of constitutional power,—for one or the other it undeniably was,—the President got possession of the public treasure. The use intended to be made of it, the use actually made of it, we all know: To reward political partisans by giving to them the use of the public funds without interest,—to organize a great association of state-banks, responsible only to the President,—and thus to forge a new set of golden fetters for the enslaving of the whole Union. But how much of that treasure has been squandered in perquisites and bribes,—we do not know. We *feel*, that the use of it is lost to the people, to whom, if left undisturbed in its lawful depository, it might be loaned for employment in the business of life; while, utterly unavailable as it now is to the people, its flights from one State to another, on the wings of transfer drafts, to sustain pet institutions here and there, are abundant evidence of its magic activity in the electioneering service of the Administration.

Contemporaneously with these proceedings, the secondary circumstances, usually appertaining to the career of an usurping chief magistrate, have distinguished the acts and writings of the Administration. One of the villainous badges of despotism is the existence of back-stair advisers, attaching themselves to power by mean and base arts,—cringing, busy, fawning, slaves,—parasites or bravos,—the cankers of a commonwealth. Such an appendage, we know, clings to the skirts of the President. And the per-

sonal adulation, lavished on the President unto very nausea,—the man-worship characteristic of his party,—is another of its anti-republican traits. This foot-stool-kissing spirit of theirs, by the way,—this their servility of adulation it was,—filling the object of it with such exaggerated ideas of his own power,—which misled him into empirical experiments upon the rights and happiness of the people.

And why should Cæsar be a tyrant then?
 Poor man! I know he would not be a wolf,
 But that he sees the Romans are but sheep:
 He were no LION, were not Romans hinds.

And he himself, in official acts and in conversation, adopts the style and port of a master. *He* needs no cabinet of constitutional advisers; not he; secretaries and clerks are sufficient for him. Then, the government is *his* government; the secretaries of department are *his* secretaries; they compose *his* cabinet; all the public officers, except the judges, are *his* personal servants, not the servants of the people and the laws. When the people repair to him with petitions, they are bid go home and work, and leave public affairs to him, who was ‘born to command.’—He, Andrew Jackson, wills a thing, and therefore, right or wrong, it shall be done. The necessities or sufferings of the people, are nothing to him; the wishes of the Legislature nothing. His will is the law,—his experiment is to be tried, lawful or unlawful, and cost what it may to the nation.—Heretofore, it has been esteemed the only policy consistent with republicanism that the Constitution and the laws should in seeming as in fact be the government of the Republic. In conformity where-with, Washington broke the dies having his effigy engraven upon them, and the features of personified Liberty only appear on our coin. But now, this wise policy is coming to be no longer observed. The Man who administers the executive authority is prominent in every thing, while the

Constitution and the laws are thrown into the shade. The symbols of monarchy, with its dialect, are insinuating themselves into the affairs of this Republic. Even she, conqueress of so many glorious fights, the pride of our gallant navy,—she, the triumphant mistress of the sea, who dissipated the charm of British ascendancy upon the Atlantic, in the blaze and smoke of her cannon,—the world-renowned Constitution herself, is made to bear on her brow the ignominious sign of servitude.—Are these the ‘shadows’ cast before ‘coming events?’ For it is an omen of fearful import, that in the state-papers, speeches, essays and newspapers, emanating from the side of the Administration, whilst legislative assemblies *in the abstract* are the frequent theme of depreciation and scorn, all the courtly phrases of kingcraft are put in requisition to exhibit the excellence of *government by one man*, and that man, Andrew Jackson.

It remains only that I remark upon one other topic, as illustrative of the spirit and tendency of usurpation, exemplified in the conduct of the President, namely, his direct encroachments upon the constitutional authority of Congress. His disregard of the rights of the Senate is no new trait of character. It is well remembered that, many years ago, he threatened, and seriously designed, to ‘cut off the ears’ of Abner Lacock, a member of the Senate, in revenge of acts done or words uttered by that Senator in his place. It is also remembered that Thomas Hart Benton, who certainly had ample means of *personal* knowledge, predicted that ‘If General Jackson should ever be elected President of the United States, the Congressmen would have to legislate with pistols in their belts.’ And his first invasion of the constitutional rights of the Senate dates from the first week of his Administration. The Constitution intended that the power of the Senate, in the appointment of public officers, should be

co-extensive with that of the President. He nominates : the Senate confirms. Each acts upon his or its own judgement. Their concurrent act makes the office. So it is with treaties. And, but for these checks on the power of the President, our government would be an elective monarchy. The Constitution further provides that he shall have power to fill, temporarily, 'all vacancies that may happen during the recess of the Senate.' Of course, the Constitution, which did not even authorize removals expressly, never dreamed that the President would *create* vacancies by removal of an incumbent, in order to make appointments in derogation of the Senate's constitutional authority. And yet the President has done this, not once or twice, but habitually, and as of system. You yourself have indicated this clause in the Constitution as susceptible of executive abuse ; and have mentioned cases arising under it, which you deem dangerous abuses of power. Others, among the best friends or most fulsome flatterers of the President,—such as Thomas Ritchie and Andrew Stevenson,—were of the same opinion, as appeared in the published proceedings of the Senate on Mr. Stevenson's nomination to England.* And I intreat you to turn you attention to the host of such cases, occurring, not upon the resignation or death of a public officer, but upon the mere wanton exercise of the executive will. And to such flagitious extreme has the President pushed this form of usurpation, that we have recently seen three of the departments filled, by means of executive jugglery, for one whole year, without the approbation of the Senate. Akin to which evasion of the constitutional author-

* You signalize one abuse of power on the part of our national representatives in Europe, examples of which have fallen under my own observation, namely, dispensing the name and privileges of *attaché* without due consideration, so that sometimes it devolves on young men without any pretensions on the score of character, who are thus enabled to parade a false diplomatic dignity in France or Italy, very little to the honor of their country.

ity of the Senate by dishonorable shifts and tricks of back-stair legerdemain, is the repeated nomination of rejected individuals, such a nomination accompanied in one place with insulting impeachment of the Senate's right of independent opinion and action. The direct tendency of this encroachment, I repeat, is to make of the President an elective monarch.

I charge upon the Administration, you remember, a plan of usurpation, consisting in the abuse of the public revenues to cement together a corrupt combination of office-holders, made wholly dependent upon the President. The unsparing exercise of the questionable power of removal; the appointment of political partisans only to office; the creation of vacancies in the recess of the Senate; the putting off the nominations to the Senate, until the closing days even of the long session; and the assertion that all the officers of the government are the mere personal agents of the President: these acts and pretences constitute one part of the plan. *Dovetailed* into this part, was the other, which consisted in getting control of the public treasure,—squandering it in rewards bestowed on presses and persons meritorious in electioneering for the Administration,—using the Bank of the United States as a party-hack if possible,—if not, then a catenation of state-banks,—causing the Bank of the United States, or the state-banks as the case might be, to convert the credit-system of the country into a stupendous engine of electioneering,—and so devoting the public money, and all the credit capable of being raised upon it by bank-agency, to the perpetual and exclusive maintenance of a particular set of persons in the government of the Union.

Of the incidental and subsidiary parts of this plan, I do not speak. For although the vindictive passions gratified, and the anti-social projects betrayed, in some of the proceedings against the Bank, are curious and instructive in-

cidents in the history of the Administration, they are foreign to the inquiry in hand ; and so are the details of corruption, as exhibited in the Post Office and in the subordinate offices of the Treasury Department.

Now, to give this plan of corruption the color of constitutional right, without which its authors well knew it would not be tolerated by any considerable body of the disinterested people of the country, it was necessary to put forward two false pretences,—one, that the President had, by the Constitution, absolute control of all public officers,—another, that, by the Constitution, he had absolute and indefeasible control of the public treasure. These are the monstrous doctrines, audaciously avowed in the Protest. In which deplorable state-paper, also, these functions are scandalously claimed as a branch of *royal prerogative* acquired by descent or succession, as ‘an *original** executive power,’ *left* in the President’s hands ‘unchecked by the Constitution.’ And to crown the whole, to give us a dictator in right good earnest, the President tells us that *he*,—not he and Congress, but he as distinguished from Congress, that is, he alone,—is ‘the direct representative of the American people.’ If this be so, then he wants of king but the name, and there is an end of the American Republic.

Furthermore, it is to be noted, that the President does not content himself with claiming exclusive possession and control of the public treasure, the funds of the government in actual being ; but he arrogates and actually exercises the power to raise money on the public credit. The States and people of the Union gave to *Congress alone*,

* ‘The power of removal, which, like that of appointment, is an *ORIGINAL* executive power, is left unchecked by the Constitution, in relation to all executive officers, for whose conduct the President is responsible.’ ANDREW JACKSON.

‘This change from immediate state of procuration and delegation to a course of acting *as from original power*, is the way in which all the popular magistracies in the world have been perverted from their purposes.’ EDMUND BURKE.

power 'to borrow money on the credit of the United States.' The provision is explicit. If the President may borrow money when he pleases, and bind the United States to repay the loan, it is evident that all the property and labor of the country are at his absolute disposal. Yet this braggart Administration, which has boasted year after year about paying off the national debt, as if it were a personal merit of the President, has the effrontery, in the face of all this, to borrow money, to a large amount, without authority of Congress, in order to squander it in payment of electioneering services, through the agency of that pestilential reservoir of corruption, the Post Office Department. It is too late to say this was not the direct act of the President. Deliberately,—ostentatiously even, as if it were matter of pride to do wrong,—he assumes the responsibility for whatever is transacted in either of the departments. He tells us the public officers are all cap-in-hand subalterns, obeying his orders; the secretaries are *his* secretaries. Of course, the impeachable misconduct of the Postmaster-General is the President's misconduct. Seeking to throw the odium of it on the Postmaster-General only, is unspeakably base and mean: its blazing 'glory' belongs to the entire Administration.

Sir Robert Walpole's ministry is memorable as the era when using the public treasure to make partisans became a methodical and regular business of administration in Great-Britain. Of such a state of things it was that Junius said: 'Corruption glitters in the van, collects and maintains a standing army of mercenaries, and at the same moment impoverishes and enslaves the country.' It is to raise up,—not a true aristocracy, for that implies a government by men possessed of some personal claims of distinction, but—an oligarchy of placemen to govern the nation. They talk of a moneyed aristocracy, while they themselves constitute the very worst species of moneyed

aristocracy, because the money, which feeds and upholds it, is not their money, but the misapplied money of the people. Walpole professed to know every man's price. You may find his political theory in Lord Byron.

'T is pleasant purchasing our fellow-creatures ;
And all are to be sold, if you consider
Their passions, and are dexterous ; some by features
Are bought up, others by a warlike leader,
Some by a place,—as tend their years and natures ;
The most by ready cash.—

Walpole dealt in ready cash, places, honors, as occasion served ; but *he* had not the advantage of making purchases with the glitter of 'a warlike leader.' In other respects, however, he proceeded in a way comprehensible at the present time ; for, as a standard historian tells us, 'closely connected with stock-jobbers, and other adventurers, in the acquisition of money, he found, through loans and other government transactions, various opportunities of bestowing indirect donatives ;' and so, by the dexterous management of secret service money, and of the government patronage and contracts, he 'established an influence more despotical than the power which the most tyrannical of the Stuarts ever sought.' An influence, not founded on the wisdom of acts, nor measured by the limits of law, but derived from a corrupt and prodigal dispensation of the public treasure. And this exorbitant influence of the crown thus acquired, and wielded by an oligarchy, not adversely to the Crown, but in the name of the Crown for their joint benefit, was, you well know, a virtual subversion of the British Constitution. And the same thing, as practised here to the same effect, is, in spirit and tendency, a subversion of the American Constitution.

Intelligent observers in Europe have justly remarked on the recent conduct of the President, as literally, and without exaggeration in phrase, *monarchical*. 'He appears to us,' says the London Courier, 'in the whole proceeding, to have

preferred his own convictions and views to the legally and constitutionally expressed opinion of his fellow-citizens; acting rather as a *European Sovereign* than as the Head of a Representative Government.'—'Certain it is,' says the London Globe, 'that no King in Europe could have ventured to so cavalierly treat the feelings and convictions of a large minority of his subjects, as the American President has done those of the free citizens of the United States.'—And lest you should reject these opinions as being the result of mere European prejudice and misconception, I would remind you that you yourself, in your Letter, say the President '*can* do what the King of England cannot do.'—He *has* done, unconstitutionally, what the King of England dare not do constitutionally; and he has been prompted to it, and borne out in it, by party-corruption.—Our hope rests in the virtue and intelligence of the people, to step forward for the salvation of their liberties. The will of one man, illegally exerted, and sustained by the arts and impositions of paid advocates, and mercenary party-managers, has filled the country, from one end to the other, with misery and confusion. If we are ambitious to continue freemen,—if we desire to see prosperity and domestic peace restored to us,—it behoves us, in such constitutional modes of action as remain to us, to arrest the career of executive usurpation, by stripping the Administration of its ill gotten dominion of the public offices and public treasure, the means whereby it reaches towards tyranny.

For the President himself, the elected Chief Magistrate of our common country,—would that his name had been permitted to descend to posterity unspotted by the bad uses, which bad men have made of it,—would that he might even now abandon the misdirected career he has been prompted to tread, and consult only the true glory of himself and of the Republic!

No weight of popularity in their ruler, no artfully con-

ceived combination of corrupt influences, can wean this people from their devoted attachment to the liberties bequeathed them by their sires.—‘FREE our land came down to us, and FREE it shall descend to our children.’—Persevering executive usurpations may, as here, break up the peaceful pursuits of industry, and throw the whole machine of society into confusion; they may, as elsewhere, lead to civil strife and domestic bloodshed; but not here, as elsewhere, can they succeed to their end. And brilliant in seeming as may be the destiny of successful usurpers, think of the infamy of those who fail. Cæsar mastered the liberties of his country, and is famous: had his fortune sunk at Pharsalia, he were but another Catiline.* And, though all but impious to *imagine* of Washington a purpose of tyranny, it is yet safe to say, that, if such a purpose could enter into his pure and noble spirit, and could he rise from the dead to accomplish it, the attempt would be utterly vain. The Union riven asunder by fratricide-arms,—long years of sanguinary contention,—this great Republic made the scorn of the world,—such are *probable consequences* of a scheme of usurpation pertinaciously pursued by a popular party-chief; but ultimate success in it is not a *possible consequence*, for so much as one of these twenty-four States. He that should first move in it, were he Washington himself, if he did not fall in the attempt,—if he did not die the death of a felon with Iturbide and Guerrero, must live to see his utter failure, and to pine away at last under that broken-heartedness of a glorious reputation squandered, which bore Bolivar to the grave†.

* Niè sia alcuno che s' inganni per la gloria de Cesare. Chi vuole conoscere quello che gli scrittori liberi ne direbbono, vegga quello che dicono di Catilina. E tanto è più detestabile Cesare, quanto più è da biasimare quello che ha fatto, che quello che ha voluto fare un male. [Machiavelli, Discorsi sopra Tito Livio, l. 1.

† One of the most patriotic and spirited compositions of the time is a piece, en-

In approaching the close of this Letter, I desire to subjoin a word of qualification, touching the expressions herein applied to the dealings of the Administration with the newspaper-press. The President pays the advocates of himself and his measures, not out of his own salary or patrimony, but out of my money and your money ; out of the contributions we have made, not to feed the rapacity of a party, but to defray the expenses of the government. Such an one shall issue a paper filled with virtuous indignation against the Bank ; but he holds some lucrative contract or well-paid office, by the tenure of concocting, and publishing a daily or weekly quota of electioneering falsehoods in his paper. This is thrice-distilled fraud. It is three-piled corruption. It is corrupt appropriation of the public treasure ; it is also an application of it to corrupt uses ; and it is over and above hateful, because being corruptly drawn from the treasury, and corruptly taken by the recipient, it is then by him corruptly employed to disseminate false intelligence among the people. I rejoice that the great body of the conductors of the press, despite the gilded lures held out to them by the President, are patriotic and right-minded citizens, who, susceptible, as by the necessities of their position they must be, of strong impressions either for good or bad, yet regard with honest indignation the flagitious conduct of those few among their number, who make it their business to gloss over misrule, and to fabricate false accusations of their opponents, for the stipend of the Administration.

And a word of qualification, touching persons who hold

titled, ' *Exposicion de los Sentimientos de los Funcionarios Publicos, asi Nacionales como Departamentales y Municipales, y demos Habitantes de la Ciudad de Bogota, hecha para ser presentada al Libertador Presidente de la Republica*,' written to dissuade Bolivar from that series of unconstitutional acts, which terminated in the dissolution of the Republic of Colombia. Had Bolivar listened to its thrilling appeals,—had he respected the rights of the Senate and of Congress,—had he scrupulously observed the Constitution of his country,—he would not have been doomed to outlive his own honor and the integrity of the Republic.

office at the will of the President, is also due to fairness and truth. In the expressions applied to them, I desire to be understood as speaking, not so much of individuals, as of the general spirit and influence of the system of party-rewards and punishments adopted by the Administration. Far be it from me to insinuate that there is any thing dishonorable or corrupt in accepting executive offices, even those which are merely administrative, and which are offices of emolument, not of honor. Some of the best men in the nation have held such offices. Originally they were bestowed as the rewards of virtue and patriotism, and earned by genuine merit. Nay, in the executive services of this Administration individuals now are not wanting, distinguished by courage in the field, or wisdom in council, and fitted to adorn any station or office which their country can bestow.—Heretofore, all such officers, being appointed by the President and Senate concurrently, and commissioned in the name of the United States, might well deem themselves honored in the places they occupied, as the ministers of the Constitution and of the People. But, as Americans, as freemen, as men of honor and conscious worth, do they not,—such of them as possess one spark of manly independence,—must they not feel insulted, degraded, by the arrogant pretensions of the President that they are merely *his* agents? The servants of his caprice? To truckle to his bidding like bond-slaves? To have it their main official excellence to electioneer for Andrew Jackson, not to honor their country, or serve the American Union? To have no conscience but his conscience? No will but his will?—I appeal to them, the Forsyths, the Casses, the Millers, the McNeils, will they not throw off the galling yoke of that ignominious Kitchen-Cabinet, which they were never born to wear?

For the rest, the rank and file of those holding offices of mere emolument, too many of them asked for office as the

specific pecuniary reward of party-services ; and in setting up tory newspapers, or busying themselves in elections, they do but labor at their chosen vocation. Taught by daily observation how 'thrift may follow fawning,' and skilled by diligent practice 'to crook the pliant hinges of the knee,' they are Tories upon a nice calculation of profit and loss, in wear and tear of conscience and compensating orders on the Treasury.—Many others, doubtless, with better feelings and independent wishes, are forced to be co-workers in the system of corruption, sometimes by the overwhelming tyranny of party-discipline, sometimes by the irresistible call of domestic exigencies. It is one of the detestable qualities of the system, thus to place honor and necessity in perpetual conflict. Good and bad are mixed up in the motives of men, as they are in the composition of the great stream of life. Not a few public *employés* have given in to the corrupt maxims of their party-leaders from the mere habit of yielding support to government ;—contractors or others, who are in fact, and ought to be in principle, altogether above sacrificing their convictions of the true welfare of the country to the gambling schemes of a desperate cabal for power.—And I rejoice to know, that there are, in the ranks even of the great organized army of public office-holders, men, who appreciate and value their own respectability ; who bear in mind the pledge of the President not to bring 'the patronage of the federal government into conflict with the freedom of elections ;' who remember the terms of reprobation applied by Thomas Jefferson to electioneering government officers ; and who accordingly devote themselves to their official duties. Would that all were equally pure and conscientious : then would the Administration stand or sink by its own deserts.

Our government exhibits the strange phenomenon, at the present time, of men totally without standing, general

qualifications, or a local constituency, who receive exorbitant salaries in the post-office and customs, of three, four, five, and six thousand dollars annually, for mere clerical or ministerial services in office,—when the judges, district-attorneys, many of the diplomatic agents of the country, and numerous other public officers, whose duties require the very highest order of intelligence and social standing, for the most part receive salaries and appointments but just adequate to their bare subsistence. It needs no sphinx to unriddle the secret of this anomaly. And there is a remedy for this great plague-spot in the government. Let the Senate fearlessly discharge its constitutional duty. It has begun nobly. It has given a great example of its capacity to deal with those members of Congress, who misrepresent and oppress their constituents, relying upon executive favor, and who legislate with the price of marketed patriotism in their pockets. Such men are commemorated by Hudibras,

Who, by their precedents of wit
T' out-fast, out-loiter, and out-sit,
Can order matters underhand
To put all business to a stand ;—
Know what a leading voice is worth,
A seconding, a third or fourth ;
How much a casting voice comes to,
That turns up trump, of ay, or no ;
And, by adjusting all at th' end,
Share every one his dividend.

Let the Senate nobly proceed, as it has nobly begun. During its late session, the Senate rejected *seventeen* nominations : it confirmed *four hundred and forty-nine*. Some of the *spoilers* have the cool impudence to speak of these acts of rejection, or part of them, as *factionous* in the Senate. Why factionous ?—Because, say they, the rejections were party rejections.—Good.—The argument is worthy of its hireling authors.—They forget that an appointment consists of two parts, nomination and confirmation, each equally essential with the other, and each

equally resting upon a separate will. The will to nominate, and the will to confirm, should each depend upon the general and particular fitness of the nominee for the office to which he is named.—Is it faction for the Senate to deem corrupt Jacksonism unfitness? Then it is equally faction for the President to deem Jacksonism fitness.—If party-motive be reprehensible in the former, it is at least equally reprehensible in the latter, and so where the Senate has been factious seventeen times, the President has been factious four hundred and sixty-six times. For the President to act in the system of removing faithful incumbents from office, in order to substitute in their place mere brawling partisans,—for him to contract for the purchase of factionaries, whether in Congress or out of it,—this, indeed, is the worst of all faction, because it is the establishment of a practical tyranny by the corrupt use of the nominating power.—Whatever the Senators do or can do, *constitutionally*, to cripple this machinery of executive usurpation by the proper use of the rejecting power, they are *bound* by their oaths and their honor to do; for if the President has a constitutional right to nominate individuals to office because of their party-services, the Senate has exactly the same constitutional right to reject them because of the same party-services; and thus we keep straight the balance of the Constitution.

No man, or set of men, high or low, attached to the party in power, has any right to complain of whatever severity of language applied to the corrupt use, which the Administration have made of the public funds. First, *no* severity of language can outgo the truth of the case. Then, being a truth of universal public concernment, it is to be published. And to publish it is but retributive justice. For the last ten years, they and their organs have been perpetually clamoring about corruption. It was shocking corruption in Adams to appoint one member of Congress

to office where Jackson has appointed a dozen. Then, it was shocking corruption to pay a newspaper one dollar for a government advertisement, for which three times that sum shall now be paid. Then, it was shocking corruption for the government to expend thirteen millions annually : now it expends twenty-two millions.—It is shocking corruption for a member of Congress to have a note discounted at the Bank of the United States ; but all right, for the Postmaster General or his subordinates to borrow money, or even receive presents, from mail-contractors who are suitors for extra-allowances. Newspapers, got up with government-funds subscribed by office-holders, and corruptly sustained by official patronage, are incessantly charging other newspapers with bank-corruption. And as a member of the Legislature of Massachusetts,—a body totally independent of the Bank, and having nothing to gain or lose by it except as the whole country may gain or lose,—I treasure it in memory that when, last winter, that body raised its voice against executive usurpation,—there were men fattened upon the ‘spoils of victory,’—men openly bought and sold in the market, and branded on the forehead with the *broad-arrow* of the Treasury,—who, in a deliberate purpose of wanton falsehood, imputed bank-corruption to the members of that Legislature. At the present time, the presses of the Administration,—writhing under the recent exposure of the corruptions of the Post Office,—and having before them the *unanimous* vote of the Senate, condemning the open and gross violations of the Constitution committed by the Postmaster-General, are yet pouring forth torrents of abuse against that magnanimous assembly, the last stay of the liberties of the Union. In denouncing the corruptions of the Administration, then,—truly, although with language of indignant justice,—we do but ‘plague the inventor’ with his own devices, and commend the ‘ingredients of his poisoned chalice’ to his own lips.

Such, then, is the question of usurpation under our government,—of comparative tendency in its parts to encroach one on the other,—as tried by the conduct of the present Administration. Its friends, its newspapers, its paid emissaries in taverns and at street-corners, are imputing encroachment to the Senate. That imputed encroachment consists, according to their and your showing, in *uttering an opinion* without, as you and they say, express or specific authority so to do, set down in the Constitution.

There is a short way to test the merits of the question. To begin, I challenge any impugner of the constitutional right of the Senate in passing the Resolutions under debate between us, to a fair comparison, item by item, of independent *opinions uttered* by the Senate as a body without express constitutional authority as to manner or fact,—and of opinions uttered by the President, not in loose conversation, but in solemn state-papers, which are in like manner unsanctioned as to manner or fact by express authority in the Constitution. Of such opinions on the part of the Senate, you will find, I think, two, between which there is no distinction in principle, but a remarkable distinction in one other respect. The Senate, by a *majority vote*, expressed an opinion, in the form of resolution, that in the removal of the deposits the President had acted ‘in derogation’ of the Constitution and laws. To this vote, a minority objects, as being a premature and irregular decision of the Senate upon impeachable matter. The same Senate, by an *unanimous vote*, expressed an opinion in the form of resolutions, that in borrowing money on the credit of the United States, the Postmaster-General had acted in violation of the Constitution.—What had become of the constitutional scruples of the minority?—Is it not clear? They dare not meddle with the *sacrosanct* person of the President, the false idol of their worship; but the Postmaster-General is made

of our own common earth ; and him they may touch.— Well, then, having set down both or neither of these two votes of the Senate on your side of the question, proceed to consider the pronounced opinions of the President. Some of them, as the so called ‘ Read-to-the-Cabinet,’ the Protest, the messages accompanying Mr. Clay’s returned Land Bill, and the re-nomination of the Government Directors of the Bank, are, equally in matter and occasion, without constitutional authority, being in truth mere electioneering essays of the Kitchen-Cabinet, tricked off with the President’s name for popular effect. Most of the many other executive state-papers, fabricated in his name by the same reputable craftsmen, are distinguished for this curious trait. During the ten or twelve years that the President has been prominently before the American people, whether as Chief Magistrate or as candidate for the office, he has, either in acts or words, pronounced a solemn judgement upon diametrically opposite sides of nearly all the great constitutional questions of the day ; deliberately contradicting, at some one time, whatever doctrine he may have deliberately affirmed at some other time. You may ascribe this to the make-shift schemes of unprincipled favorites practising upon the mind of their victim,—or to the capriciousness of change, which usually accompanies wilfulness of temper, as distinguished from the consistent comprehension and far-seeing perseverance of true moral greatness,—whichever alternative be most acceptable. It is hard if part of these opposite opinions of the President may not be counted on our leaf of the ledger. One just half of them, it would seem, are unconstitutional.

But, however this be, strike the balance as you please between the *opinions* of the Senate and of the President, and when you shall have pondered that balance well, proceed to a comparison of *independent acts* of the

Senate, and of *independent acts* of the President, performed without *express* authority from the Constitution. You shall find, if I mistake not, a reckoning *against* the President, in the ratio of *thousands to none*. Consider, also, that while the Senators, like the conscript fathers of the Roman Republic awaiting in their curule chairs the approach of the Gauls, sit in the Capitol defended only by the moral grandeur of their presence, as the representation of the American States,—the President, on the other hand, comes to the conflict with an army of forty thousand mercenaries at his back, ready, it may be, with Brennus of old, to fling his sword into the scales, and hold our liberties at a ransom, except there be some Camillus in reserve, vouchsafed by Heaven for the salvation of *our* Republic. Beside which, the President has at beck that long-suffering majority of the House of Representatives,—Issachar-like, ‘an ass crouching down betwixt’ unconscionable ‘burdens,’—composed of patent ‘democrats,’ disobeying the positive instructions of their constituents, or high-minded ‘patriots,’ acting against their known convictions of the public good, out of disinterested respect for the will of the enlightened tenant of the White House.* These are plain elements for deciding the question of usurpation, commended to the consideration of all, who have consciences to feel, and heads to think.

We, of the regicide race of the English Common-

* ‘A vigilant and jealous eye over executory and judicial magistracy; an anxious care of public money; an openness approaching towards facility, to public complaint: these seem to be the true characteristics of a House of Commons. But an addressing House of Commons, and a petitioning nation; a House of Commons full of confidence, when the nation is plunged in despair; in the utmost harmony with the ministers, whom the people regard with the utmost abhorrence; who vote thanks, when the public opinion calls upon them for impeachments; who are eager to grant, when the general voice demands account; who, in all disputes between the administration and the people, presume against the people; who punish their disorders, but refuse even to inquire into the provocations to them; this is an unnatural, a monstrous state of things in this Constitution.’

Burke's Thoughts on the present Discontents.

wealth, with blood 'fetched from fathers' not only 'of war-proof,' but of usurpation-proof, challenge and defy open assault on our liberties; and as for insidious tyranny, whether it approach us unseen along the slimy paths of reptile corruption, or boldly face its front with false colors of pretended patriotism, we trust ourselves in the keeping of that Providence, which brought hither men of such differing stock, united only by community of transatlantic wrongs, the Puritans of Massachusetts, the Catholics of Maryland, the Huguenots of Carolina and New-York, and the Quakers of Pennsylvania, and made them to found this great Republic in the wilds of America. We believe, with them, that 'the waves of the sea do not more certainly waste the shore,' than power tends to encroachment. Forewarned is forearmed. Maugre the forty thousand streams of corruption welling out over the country in golden sands from the copious fount of the Federal Treasury, there still remain those among us, who continue to hold in verdant honor the times, when our fathers stood on the ice-bound beach of Plymouth, or by the rude cliffs of Salem, 'with no benefactor around them but nature, *no present sovereign* but God.' Not all, who look forth from Boston to the lines of Dorchester and Charlestown, are yet recreant to the Whig spirit that breathes round about us from those immortal heights; not all, have sold their souls for a price to the service of Martin Van Buren. Doubtless every engine of imposition will be set in play by the Administration, to palliate its iniquity, to disguise its tyranny, to conceal its corruption, from a suffering-roused and thoughtful people. But, though the millions, which our industry pours into the public chest, be returned upon us in lavish bribes for our destruction,—though the Post Office and the Treasury scatter abroad their lie-stuffed sheets, like the falling leaves in autumn, thick enough to plaster every inch of the soil of

America, with their rottenness, still, if we be but true to ourselves, true to the purity and fame of our fathers, we shall strike down that impersonated Corruption, which now rides roughshod over the people, and by its baleful influence benumbs and deadens the best energies of the Republic.

To accomplish this, it needs but that the people understand the true facts of the case. The Chief Magistrate commits a mad assault upon our liberties and our means of subsistence, convulsing the whole Union with the anguish of present misery and apprehension of greater coming wo. Pensioned editors and wealthy placemen tell us it is all as it should be, because Andrew Jackson has done it. These disinterested gentry, grown fat upon *treasury-pap*, laugh at the idea of a pressure in the money-market.—Good easy souls, plundering the Treasury with one hand, and the Post Office with another, what know or care they of public distress?—Under the specious pretext of driving corruption from the Capitol and the White House, as Até was cast down from heaven, they have *nearly doubled* the public charges, and organized a system of pecuniary and party-corruption, worthy of the licentious courts of Europe. They, a mere oligarchy, banded together to convert themselves into a *permanent privileged order*, and stickling at no scruple of faith or honor in the perpetration of their flagitious plans,—they, forsooth, pretend, with brazen effrontery, to be the exclusive democracy of this Nation. But the truth can be not longer disguised. In the wanton pride of their self-intoxication, they and their master have done that, which *compels* men to think. Already, of those who judge for themselves, there are two distinct parties in the country, the suffering people, and the full-fed office-holders. Is a newspaper clamorous for Jackson? It derives its being, directly or indirectly, from the public treasure.—Is an election pending?

Custom-house officers are foremost in the work.—Is a memorial in favor of the President needed? The Administration has tools that can forge you a thousand subscribers *to order*.—These things, I say, are beginning to be understood; and the people are rising in the majesty of their might to shake off this tyranny of the hireling Swiss Guards of the President.—Ere long, it will be deemed, as it ought, dishonorable, ignominious, to prostitute a public office to the indiscriminate party-support of the Administration.

Indeed, the wonder is, how any man of honor and worth can palliate, to his own sense of self-respect, the participating personally in such a corrupt system. What is it, but to barter the birthright of one's liberties for a mess of pottage? In that exquisite Virgilian episode of the descent of Æneas to the Shades, which Bishop Warburton justly esteemed one of the noblest pieces in the whole range of uninspired composition, there is mention of them, who lend their aid to schemes of usurpation for sordid inducement.

Vendidit hic auro patriam, dominumque potentem
Imposuit. —————

And where is he, *who sold his country for gold, and imposed on it a powerful master*? Is it not amid the shrieks of agony, the dull-echoing lash, the clank of chains, ever sounding up from the realms of Gnossian Rhadamanthus? Beside the mantling cup which Tantalus may not touch, Ixion's revolving wheel, the still-impending cliff of the Lapithæ, the rock of Sisyphus perpetually rolled up in vain, the unsated vulture gnawing at the heart of Tityus?—This, poetic fiction though it be, is the expression of the unbiased judgement of mankind touching corrupt support of an usurping chief magistrate.

And I call upon you,—you, who, in the Spy, have carried back our imaginations to the morning of our indepen-

dence,—who, and in the Pioneers and the Prairie, have so admirably illustrated the manners and the history of the people of this Continent,—who, in the Heide mauer, the Bravo, and the Headsman, have given great lessons of social wisdom,—who, in the Notions of the Americans, have deliberately assumed the defence of our institutions,—I call upon you, a Republican and an American,—not to throw your weight into the scale of executive encroachment. I know that minstrel voices are too prone to sing the praises of power. They not always love the empire of the people. The lordly dais, the pomp of courts, the largesses of the great, pensions, and epicurean ease are not without a charm for over-fanciful minds. But you, a liberal in principle, are not of such as they.—Join yourself, then, to the friends of liberty and their country, who drawn forth out of their retirement in thousands by the impending peril of the Constitution, are rallying on all sides to rescue our Ark of Covenant from the usurping and sacrilegious hands of the Administration.

ONE OF YOUR COUNTRYMEN.

1877

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Cooper

1888

